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Letter dated 15 November 2007 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities addressed to the President of the Security Council

I have the honour to transmit herewith the seventh report of the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004) and extended by resolutions 1617 (2005) and 1735 (2006).

The report was submitted to the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities on 30 September 2007, in accordance with Security Council resolution 1735 (2006), and is currently being considered by the Committee.

I should be grateful if the attached report could be brought to the attention of the Council members and issued as a document of the Security Council.

(*Signed*) Johan **Verbeke**
Chairman
Security Council Committee established pursuant
to resolution 1267 (1999) concerning Al-Qaida and
the Taliban and associated individuals and entities

Report of the Analytical Support and Sanctions Monitoring Team appointed pursuant to Security Council resolutions 1617 (2005) and 1735 (2006) concerning Al-Qaida and the Taliban and associated individuals and entities*

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I. SUMMARY

1. The threats from Al-Qaida and the Taliban remain persistent and real. Al-Qaida has continued to show its determination to mount major attacks; it has extended its base of support; its leaders have consolidated their ability to communicate their message and their operational plans, and the Taliban have increased their influence not just in Afghanistan, but in North-Western Pakistan as well. Meanwhile, security forces have prevented attacks and killed or captured significant leaders. But the sanctions regime has contributed less than it might.

2. This is the seventh report by the Analytical Support and Sanctions Monitoring Team since it was established in March 2004; some of the themes are familiar and few are entirely new. The reason for this is that the Security Council sanctions regime, which remains the sole vehicle for truly global action against the twin threats of Al-Qaida and the Taliban, continues to suffer from two main weaknesses: the limitations of the Consolidated List and a lack of involvement by Member States. The Team has addressed both these issues before, but makes no apology for raising them again.

3. The Consolidated List should be a clear expression of the threat as seen by the many States that confront it. If States do not recognize the List as accurate and relevant, their implementation of the measures will be half-hearted and will not bring about the intended results. Helped by the Team, the Al-Qaida and Taliban Sanctions Committee has made many improvements to the List, as well as to the procedures for listing and de-listing; but there is more to do.

4. However, the responsibility for further action also rests with Member States, by putting forward names, pointing out problems, or discussing further improvements to procedures. States will always regard their national security as their first priority, but unless all States work together to plan longer-term action against Al-Qaida/Taliban-related terrorism, it is unlikely that any State will ever be truly safe. The sanctions regime, especially if adapted and improved, provides a basis for such joint action.

5. The Team's report examines why many States still do not recognize the full potential of the sanctions regime. It takes stock of progress and looks at the fate of existing initiatives, even while proposing new ones. As well as looking at the List, the Team examines implementation of the three sanctions measures: the assets freeze, the travel ban and the arms embargo. It reports some progress but many remaining challenges. The report also looks at the legal challenges to the regime, which are likely to increase unless listing and de-listing procedures improve.

6. The Team reports on its engagement with the private sector, and its expanded engagement with security and intelligence services. Both have proved of great benefit to the Committee by informing it directly of everyday problems of implementation. The Team has also increased the scope of its joint activity with regional and international bodies as a way to spread awareness of the sanctions regime and encourage a broader and more effective engagement by States; it reports on this as well.

II. OVERVIEW OF THE SANCTIONS REGIME

A. The regime carries on, but with mixed support

7. A United Nations Security Council sanctions regime is inevitably a fairly blunt instrument, and the Al-Qaida/Taliban regime is aimed at a particularly complex and elusive target. Measures of its success are hard to identify, and the apparent resilience of its target groups raises questions as to its impact and brings focus on its deficiencies. But the sanctions regime has achieved much and has further potential to counter the influence of Al-Qaida and the Taliban. It is also a clear, international condemnation of their acts and objectives.

8. The Monitoring Team aims to do more than just help the Al-Qaida and Taliban sanctions Committee established pursuant to Security Council resolution 1267 (1999)[1] to maintain a basic level of support.[2] It continues to promote the sanctions regime with a wide range of States and to work with them to make it more effective. However, despite improvements,[3] senior counter-terrorist officials in contact with the Team seem less enthusiastic about the sanctions regime than they were. Their underlying support remains, but their hopes that the measures might do more to address national and regional problems, and promote a qualitative increase in international cooperation, have been largely disappointed. They are especially disappointed with progress in areas where cooperation across borders is essential, such as the response to terrorist use of the Internet. There is also a persistent call for further improvements to the quality of the Consolidated List of individuals and entities subject to the sanctions,[4] and to the processes that lie behind the addition and removal of names.

9. Aspects of the regime have begun to look outdated and less well-designed than they were. If it is to continue to have an effect, the regime needs a flexibility and adaptability that more closely mirrors the threat it sets out to address. The procedures and processes behind the regime are slow to change and the Committee and the Team need to find ways to manage the expectations of States while at the same time doing what they can to respond to their concerns. The Committee has always welcomed feedback from States, but it must seek better ways to show that it is examining their comments and suggestions in depth, and with a will to make changes as a result. Effective dialogue between the Committee and States is the best way to promote the sense of engagement and joint ownership on which willing cooperation relies.

10. In dealing with States, the Team has often found it easy to generate interest in the sanctions regime, but hard to sustain it. In some cases this is because States do not see counter-terrorism as a national priority; in others because they regard implementation of the sanctions regime as less important than other counter-terrorism work, or it can be because they question the fairness of its application. Nonetheless, even in States that pay too little attention to the sanctions regime, the Team

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[1] The Committee has an official website at www.un.org/sc/committees/1267/index.shtml.

[2] Annex II of resolution 1735 (2006) details the mandate of the Team.

[3] For example, a review mechanism was introduced in November 2006 and resolution 1730 (2006) established a focal point for de-listing submissions.

[4] The Consolidated List established and maintained by the 1267 Committee with respect to Al-Qaida, Usama bin Laden, and the Taliban and other individuals, groups, undertakings and entities associated with them.

has not found a lack of commitment to act against Al-Qaida and the Taliban, or to cooperate internationally to do so.

B. The threat from Al-Qaida and the Taliban

1. Al-Qaida

11. Much is written about the organizational disposition and strength of Al-Qaida, but analysts agree that its influence has not declined over the last year, nor has its intention or ability to attack.[5] There may have been fewer major operations than Al-Qaida leaders would have liked, but the arrest or death of suspected Al-Qaida-related terrorists in more than 40 countries around the world since the Team last reported in November 2006 (S/2007/132) suggests a high volume of terrorist planning.[6] The frequent and widespread warnings by world leaders and counter-terrorist professionals that more attacks could occur at any time,[7] acknowledge Al-Qaida's spread, its patience and its determination. In any case, Al-Qaida hardly needs the publicity of new attacks to promote its message; it reaches a global audience whether they occur or not.

12. There has been a further increase in Al-Qaida propaganda delivered through the Internet. On 7 September 2007 Usama bin Laden[8] issued his first video broadcast since October 2004.[9] He addressed the American people directly, assuming a high level of discontent with the policies and actions of their leaders. He criticized capitalism, democracy and global trade as the causes of problems of personal debt and political exclusion. He pointed out the similarities between Christian and Muslim beliefs, as well as Islam's historic tolerance of other faiths. He called for a mass conversion to Islam. He presented himself as above the operational fray; a noble leader whose sole desire was to help the poor and oppressed against the tyrants who rule over them. His speech was a good example of the hubris of Al-Qaida's leaders and their self-perception as defenders of values such as freedom, equality, humanity and justice; nonetheless, it will have impressed Bin Laden's supporters as a sincere, reasonable and well-based argument for action.

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[5] Information provided by Member States.

[6] Since 7 November 2006, the Team has recorded news reports of the arrest or death of suspected terrorists with links to Al-Qaida or other related listed groups in Afghanistan, Algeria, Austria, Australia, Bahrain, Belgium, Canada, China, Denmark, Egypt, France, Ethiopia, Germany, India, Indonesia, Iran, Iraq, Italy, Jordan, Kenya, Kyrgyzstan, Lebanon, Libya, Madagascar, Mauritania, Morocco, Nigeria, Pakistan, the Philippines, the Russian Federation, Saudi Arabia, Singapore, Somalia, Spain, Sweden, Switzerland, Syria, Tajikistan, Trinidad and Tobago, Tunisia, Turkey, the United Kingdom, the United States, and Yemen.

[7] See www.mi5.gov.uk/output/Page374.html, www.dhs.gov/xnews/speeches/sp_1180627041914.shtm, www.bmi.bund.de/cln_028/nn_122730/sid_1D9D705C13171C0AFFFC7430A07020C7/Internet/Content/Nachrichten/Medienspiegel/2007/09/BM__ARD__en.html as well as https://pastel.diplomatie.gouv.fr/editorial/actual/ael2/bulletin.asp?liste=20070920.html&submit.x=10&submit.y=16#Chapitre1.

[8] For editorial clarity, listed individuals or entities will be mentioned with their permanent reference number the first time they appear in the text of this study and will be signalled by an "*" when mentioned again. Al-Qaida, Usama bin Laden and the Taliban are named in the Security Council resolutions themselves and will just be referred to by their names. All other names appearing without a permanent reference number or an "*" are assumed not to be listed.

[9] "Message to the American people", full transcript posted on forums on the Internet. The most recent speeches by Usama bin Laden were audio messages released on 29 June and 1 July 2006.

13. Following this video, Bin Laden made two other appearances in September; one reminding Al-Qaida supporters of the 9/11 hijackers and urging them to follow their example,[10] the other appealing to the people of Pakistan to overthrow President Musharraf.[11] All three broadcasts sought to justify Al-Qaida's basic premise that the use of violence in support of its cause is not only legitimate but obligatory and to present Bin Laden as a man of authority and power. These messages, and the ambition they show, reflect the strength Al-Qaida draws from activists in disjointed cells who desire to be part of something bigger.

14. While Usama bin Laden has promoted his distorted interpretation of Islam and his view that the struggle against Western influences will succeed even if it lasts through generations, Aiman Al-Zawahiri (QI.A.6.01), in numerous videos and broadcasts over the last year, continues to try to capitalize more immediately and more operationally on the tens of thousands of people around the world who sign up to password-protected websites and chat rooms.[12]

15. His video released on 19 September 2007[13] demonstrates the increasing level of professionalism achieved by Al-Sahab, the main Al-Qaida media production unit. It interlaces a new message with footage showing Mustafa Abu Al Yazeed, a.k.a. Sheikh Saeed, the head of Al-Qaida in Afghanistan, together with Taliban leaders; excerpts from Bin Laden's messages; television news stories; clips of prominent Heads of State and Government, including many from Arab countries; officials from the Central Intelligence Agency (CIA); officials from the North Atlantic Treaty Organization (NATO); counter-terrorism experts; Muslim clerics; scholars; journalists; lawyers, and Western supporters of Al-Qaida. It is expertly produced and, like previous videos, was subtitled in English and uploaded almost simultaneously onto hundreds of servers by what must be a large group of volunteers.[14]

16. Through these videos, Al-Zawahiri* hopes to inspire attacks and to bring as much operational activity as possible under central direction. Al-Qaida has established training centres in Pakistan, and networks that channel people to them from overseas. Operating out of houses and small compounds, they may lack the facilities of the camps run by Al-Qaida in Afghanistan during the Taliban regime, but the trainees receive concentrated attention relevant to their circumstances and opportunities, and discuss attack plans.[15] The evidence from arrests of people who have received such training confirms that Al-Qaida is as determined as ever to carry out ambitious, large-scale operations wherever it may.[16] Although the world may have become numbed to some extent to the shock and horror of regular attacks, even when tens of people die, any duplication of the level of violence seen in Al-Qaida-related operations in Iraq, or the downing of aircraft, or the explosion of a 'dirty bomb' in

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[10] "The will of martyr Walid Al-Shehri", circulated through forums on the Internet.

[11] "Come to Jihad", circulated through forums on the Internet.

[12] The Ekhlaas forum, for example, has some 30,000 subscribers, according to the SITE institute. See www.msnbc.msn.com/id/20697164/site/newsweek/page/0/.

[13] "The power of truth", circulated through forums on the Internet.

[14] www.msnbc.msn.com/id/20697164/site/newsweek/page/0/.

[15] Information provided to the Team by Member States.

[16] Ibid.

an urban centre, which remains an Al-Qaida ambition,[17] will cause widespread economic, social and political disruption.

2. The Taliban

17. The Taliban are resurgent and now manage to dominate large areas of the countryside in southern Afghanistan, retreating only when confronted by superior Afghan or coalition forces. They have enough money to hire foot soldiers and to buy weapons, including the components for sophisticated improvised explosive devices, and their ability to cross the long and porous border with Pakistan is largely unconstrained.[18] The Afghan National Security Forces and United Nations Assistance Mission to Afghanistan (UNAMA) currently estimate there to be about 3,000 active and up to 7,000 occasional Taliban fighters in Afghanistan;[19] but while this is a relatively small number, they receive at least passive support from many others.

18. The Taliban have had set backs, such as the arrest by Pakistan authorities in February 2007 of Ubaidullah Akhund (TI.A.22.01), the head of the Taliban Shura Council, and the deaths of another senior member, Akhtar Usmani, in December 2006, of Mullah Dadullah, supreme Taliban commander, in May 2007, and of Jallalouddine Haqani (TI.H.40.01), a powerful tribal commander, in June 2007, as well as of a significant number of other senior and mid-level commanders over the last year.[20] But they have not stopped attacks. Taliban lines of command have always been haphazard and decentralized and owe more to personal connections than to any hierarchical organization, and they are difficult to cut completely. For now, southern and eastern Afghanistan remain locked in a bloody stalemate, with urban centres too often suffering from weak governance and increasing corruption[21] and the countryside controlled by a mix of tribal warlords, drug-traffickers and Taliban commanders. The threat to President Karzai's authority and to the stability of Afghanistan is as real as ever.

19. The relationship between Al-Qaida and the Taliban appears close. In his video message of 19 September 2007, Al-Zawahiri* once again referred to Mullah Omar (TI. O.4.01) as the supreme leader, and while the Taliban can always recruit more foot soldiers, they lack experienced commanders to replace the many that have been killed and they have looked to Al-Qaida not just for training, but also to fill the gaps. But the appointment of foreign leaders is not popular and the overall number of fighters from outside the immediate area is not large, somewhere between five and ten per cent of the total depending on the area.[22] There has also been a report of Afghans operating elsewhere in support of Al-Qaida objectives, though this may have been without Taliban knowledge or support.[23] The Taliban and Al-Qaida have a common need to establish secure bases in Afghanistan,

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[17] Ibid.

[18] Information provided to the Team by the authorities in Pakistan and Afghanistan.

[19] Figures from August 2007.

[20] A/62/345-S/2007/555. At least 80 in Helmand alone according to UNAMA.

[21] Ibid.

[22] Source: UNAMA. Languages heard in radio traffic include Arabic, Chechen, Punjabi, Turkish, Uighur, Urdu and Uzbek.

[23] The Iraqi Defence Ministry in September 2007 said that two Afghans had been stopped by the authorities in Iraq as they prepared to blow up a dam which was a known target of Al-Qaida. See http://edition.cnn.com/2007/WORLD/meast/09/26/iraq.main.ap/index.html.

especially as the authorities in Pakistan increase the pressure on the other side of the border. But while the Taliban focus is very much on Afghanistan, Al-Qaida is hoping for other gains as well, and probably both groups would prefer less inter-dependence. However, based on its discussion with Pakistan and Afghan authorities, and other experts, the Team sees no fundamental change in the long-standing relationship between the two movements.[24]

C. The Taliban and the drug trade

20. Coalition forces, United Nations agencies and the Afghan authorities all see increasing evidence of a growing relationship between the Taliban and the drug trade.[25] In its latest report, the United Nations Office on Drugs and Crime (UNODC) said that increased cultivation of opium poppies in Afghanistan had led to a 34 per cent increase in potential opium production since 2006.[26] Afghanistan now accounts for 93 per cent of world opium supply,[27] and its counter-narcotics agency estimates that about one million Afghans find extra work during the poppy harvest.[28]

21. Approximately 70 per cent of Afghan poppies are grown in five provinces along the Pakistani border, the area of Afghanistan most heavily infiltrated by the Taliban, and 53 per cent of the national crop comes from Helmand,[29] estimated by Afghan authorities to be 70 per cent under Taliban control.[30] Where they can, the Taliban tax the poppy trade, usually at ten per cent of the crop,[31] and in exchange provide security for traffickers and farmers and sometimes assist with the harvest. Taliban commanders may also act as bankers, lending money for seed. The Government eradication programme has had limited effect and appears to have driven more farmers to seek protection for their crops.[32]

22. The Taliban are also involved in refinement and post-refinement stages of the trade, and the distinction between them and purely criminal traffickers has become less clear. According to a report by the World Bank and UNODC, around 20 to 30 drug traffickers, the majority operating in southern Afghanistan, control most of the trade[33] and they could not operate without a close association with the main Taliban commanders in the region, 20 of whom are also regarded by security authorities in Afghanistan as serious traffickers.[34]

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[24] Information provided during the Team's visit to Afghanistan in May 2007.

[25] A/62/345-S/2007/555.

[26] Opium production in metric tons is likely to reach 8,200 this year, twice the level of 2005 (4,100). Production in 2000 was 3,276. United Nations Office on Drugs and Crime, Afghanistan Opium Survey 2007; www.unodc.org/pdf/research/AFG07_ExSum_web.pdf.

[27] Ibid.

[28] Information provided by the Afghan authorities during the Team's visit in May 2007.

[29] Afghanistan Opium Survey 2007, op.cit. Helmand now accounts for more opium than was produced throughout Afghanistan in 2005.

[30] Information provided during the Team's visit to Afghanistan in May 2007.

[31] Information provided during the Team's visit to Afghanistan in May 2007.

[32] Afghanistan Opium Survey 2007, op.cit. According to UNODC, the Government's opium eradication programme in 2007 destroyed only marginal areas of production.

[33] http://siteresources.worldbank.org/SOUTHASIAEXT/Resources/Publications/448813-1164651372704/UNDC_Ch7.pdf .

[34] Information provided to the Team by the Afghan authorities.

23. By resolution 1735 (2006), the Security Council encouraged States to submit to the Committee for inclusion on the List names of individuals supporting Al-Qaida and the Taliban with proceeds derived from illicit cultivation, production, and trafficking of narcotic drugs originating in Afghanistan.[35] The Team notes that some States have begun to look seriously at doing so.

III. THE CONSOLIDATED LIST

24. As of 30 September 2007, the Consolidated List had 489 entries: 142 individuals associated with the Taliban, and 223 individuals and 124 entities associated with Al-Qaida. The List also noted 22 individuals and entities that had been de-listed.

25. The inconsistent relevance of the List to the current threat continues to undermine the effectiveness of the sanctions regime. Although procedures for listing are now clearer and available on the Committee website,[36] many prominent leaders of the Taliban and Al-Qaida have not been listed, and there have been only five names added since the start of 2007, the lowest annual rate of increase ever, continuing a downward trend observable since 2001.[37]

26. States have told the Team that the reasons they have not submitted more names are either political, for example when the people concerned are non-nationals whose listing may seem an intrusion into the affairs of another State; domestic, when listing may appear to stigmatize a particular segment of the community or could be interpreted as a political act against an opposition figure; practical, when the publicity attracted by a listing might jeopardize an investigation; or legal, when a State might fear the consequences of a legal challenge to its application of the measures. States may also hesitate to suggest the listing of their own nationals for fear that this would suggest a particular problem with terrorism. In addition, there is continued concern that sanctions have a punitive effect, whatever is said about them as a preventive measure, and that the listing process should therefore incorporate higher standards of fairness.

27. Given the importance of the List being seen as a credible expression of the threat, the Team recommends that Committee members themselves do more to update it. In support, the Team suggests that it submit to the Committee at three-month intervals the names of entities and individuals that it believes should merit consideration for listing, based on information gathered from States and other sources.[38] This would not be completely without precedent; the expert group established by resolution 1591 (2005) to support the Sudan sanctions regime is specifically included as a relevant source of information that may lead to designations.[39]

28. In contrast to the lack of new listings, States have provided much new information on existing entries, generally during visits by the Team. Since the submission of the Team's November 2006

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[35] Paragraph 12 of resolution 1735 (2006).

[36] Fact sheet on listing, www.un.org/sc/committees/1267/fact_sheet_listing.shtml.

[37] In 2000 there were seven listings; 2001 – 278; 2002 – 54; 2003 – 77; 2004 – 44; 2005 – 32; 2006 - 24.

[38] See annex II for examples of possible changes to the entities in the Al-Qaida section of the List.

[39] Paragraph 3(c) of resolution 1591 (2005).

report (S/2007/132), the Committee has approved more than 130 amendments, half of them to the Taliban section of the List as a result of considerable work by the Government of Afghanistan. It is also noteworthy that one of the new names on the List is the first addition to the Taliban section since 2001. Another improvement to the List has been the rendering of names in their original script. This is intended to overcome the lack of standardized systems of transliteration and the Team has worked closely with relevant governments to ensure that the names are written as they might appear in national identity documents. However, it appears that financial institutions and others involved in implementation are not yet aware of this and the Team recommends that the Committee and States find ways to bring it to wider attention.

29. It is especially important to improve existing entries which lack identifiers; States cannot implement the sanctions unless they can identify their target, and the presence of inadequate entries on the List undermines its overall credibility. Also, poorly identified names risk application of the sanctions to the wrong persons. The lack of identifiers on the List is consistently quoted by States, and those responsible for compliance in banks and other institutions, as the principal reason for a lack of thorough implementation. The Team recommends that the Committee encourage States to inform it when they encounter problems of implementation because of a lack of identifiers. The Committee could then consider how to improve these specific entries, in conjunction with the original submitting State(s) and, where appropriate, with the States of nationality and residence. The Committee should consider what action to take if no more identifying information can be found.

30. In a further effort to improve the value of the Consolidated List, and to take account of recent changes in the Committee procedures and practices, the Team recommends that the Committee bring up to date the introductory page of the List,[40] which is intended to give general guidance on the List and the way it is constructed. For example, the Committee could make clear which is the family name or equivalent for all listings for individuals. The Team also proposes that the Committee modify the Guidance Note on searching the List to ensure consistency with the introductory page. Both updates would help to ensure that electronic searches of the List are properly conducted.[41] Having changed the introductory page, the Team proposes that the Committee then request the Team to offer amendments to the List to ensure that it matches the information given on the introductory page and that there is basic consistency between entries.[42]

31. The Committee approved a recommendation in the Team's last report (S/2007/132, para. 58) to include on its website a version of the List in Excel (xls) and plain text (txt) formats to make it easier for banks and other financial institutions, as well some international organizations, to incorporate a searchable version on their databases. This work is now complete.

32. The Team believes that the more the List is used operationally by security and law enforcement agencies the more additional information is likely to be found and added. It intends to

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[40] www.un.org/sc/committees/1267/consolist.shtml.

[41] www.un.org/sc/committees/1267/pdf/sguidance.pdf.

[42] The Team could draft a proposal for review by the Committee, and in doing so, benefit from other relevant organizations' expertise on this issue, for example the International Criminal Police Organization (INTERPOL) and the International Civil Aviation Organization (ICAO).

identify potentially appropriate international databases of terrorists and their associates, such as that proposed by the Russian Federal Security Service (FSB) at the sixth international meeting of the heads of special services, security agencies and law-enforcement organizations held at Khabarovsk (Russian Federation) in September 2007.[43] It will then recommend to the Committee that the Team approach the custodians of suitable databases to propose that they include the Consolidated List. However, it is worth remembering that at the other end of the spectrum there are some States that still have technical problems entering the List in their own national watch lists.

33. Some States have reported legal or other objections to incorporating section E of the List into their databases; this section contains the names of people and entities that have been removed from the List. The Committee has not agreed to the Team's earlier proposal that section E be deleted (S/2006/750, para. 28), but to address the concern of States, the Team recommends that if the Committee wishes to retain this section, it relocate it to its website as a separate document with a hyperlink to the main List. If required by the Committee, the Secretariat could continue to send Section E, together with the rest of the List, to all Member States, regional and sub-regional organizations when re-circulating it as required by paragraph 19 of resolution 1526 (2004).

34. The checklist introduced by paragraph 10 of resolution 1617 (2005), and available on the Committee website,[44] was intended to remind Member States to take action with regard to new listings. It now needs updating. The Team has suggested that an amended checklist could offer States a useful tool to submit new information for the List, or to inform the Committee of action taken to implement the sanctions against names other than those most recently added (S/2007/132, paras. 26-27). The Team recommends that the Committee revisit this idea, and in any case bring the checklist up to date.

35. The cover sheet, introduced by annex I of resolution 1735 (2006),[45] also available on the Committee website, was designed to offer practical guidance on submissions for listing. Some Member States have also used the cover sheet to provide additional information regarding existing listings, and the Team fully supports such use. It therefore recommends that the Committee adjust the wording of the cover sheet to make it appropriate for this purpose.

36. Finally, to help States apply the measures against individuals, it might be useful to add more information on the List as to the primary reason for the listing. If an individual has been added because the main risk that he poses is as a financier, and if States were aware of this, then they might make a special effort to identify his assets; if the main risk was that the individual facilitates travel, or provides training or weapons, then other appropriate action might take priority. The Team recommends that the Committee add such detail to the List where submitting States agree.

37. The issue of dead people on the List continues to raise questions about its credibility. The Committee has followed an earlier recommendation of the Team to note on the List when an

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[43] http://russiatoday.ru/news/news/13756.

[44] www.un.org/sc/committees/1267/pdf/checklist.pdf.

[45] www.un.org/sc/committees/1267/pdf/coversheet.pdf.

individual is believed to be dead,[46] and there are currently 11 such entries; but the Team is aware of several other cases where it seems that a listed individual is dead. In its first report, the Team recommended that the Committee adopt a mechanism to permit the removal of such names (S/2004/679, para. 61), and, in April 2006, the Committee sent a note verbale to all States outlining new procedures in this regard.[47] In addition, the Focal Point for De-listing[48] established by Security Council resolution 1730 (2006), may accept a request for de-listing from the family of a deceased listed individual, or from their representative, and this has made it easier for the rightful (non-listed) heirs of a deceased individual to have a request processed when no State is ready to act on their behalf.

38. Some States have expressed concern to the Team about the need to provide a death certificate to the Committee in support of a proposal to remove the name of a deceased person from the List. In some States no death certificates are issued, and in others record keeping has been disrupted by internal conflict. Elsewhere deaths have occurred in violent circumstances and the authorities have not been able or willing to issue an official document to certify the death. Many States are not sure what alternative to a death certificate might satisfy the Committee and the Team recommends that the Committee provide more guidance on what it requires in order to consider removing an individual from the List on account of his death.

IV. IMPLEMENTATION OF THE SANCTIONS

A. Review mechanism

39. In earlier reports the Team proposed that the Committee introduce some form of periodic review of listings, and the topic has been debated elsewhere.[49] After considerable discussion, the Committee amended its guidelines on 29 November 2006 to create a new section 6(i), which provides that:

> Every year, the Secretariat shall circulate to the Committee the names on the Consolidated List that have not been updated in four or more years [....] any Member of the Committee may request a review of a listing, accompanied by a justification for that review. [....] The designating State(s) and the State(s) of residence and/or citizenship may submit updated information on the listed individual or entity, including identifying data. Such a review would take place without any presumption as to its outcome. The listing will be automatically renewed, unless the Committee decides to remove the name from the Consolidated List.

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[46] S/2007/132, para. 20.

[47] SCA/2/06(8), April 2006.

[48] www.un.org/sc/committees/dfp.shtml.

[49] See, for example, the Team's fourth report on discussions at the Team's third regional meeting with the heads and deputy heads of security and intelligence services for seven Arab States and Pakistan (S/2006/154, para. 49); remarks of Switzerland at the 5446th meeting of the Security Council (S/PV.5446, p.28); the Team's fifth report on a paper prepared by the Watson Institute for International Affairs (S/2006/750, para. 38); and comments by the Legal Counsel of the United Nations (S/PV.5474, p. 5); comments by the United Nations Commission on Human Rights Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/61/267, para. 34).

40. Accordingly, the Secretariat circulated to the Committee in March 2007 a list of 115 names that had not been updated in four or more years. Very few were selected for review and ultimately, after all the procedures outlined in the Committee Guidelines had been completed, including efforts to obtain information from other relevant States, the review ended without any changes to the List.

41. This review was intended to serve two important purposes: to update entries which may have been neglected; and, at discretion of the Committee, to remove names which no longer met the criteria for listing. As the sanctions are intended to be preventive and temporary in nature, and may escape some criminal procedural requirements on this basis, it is necessary as a matter of fairness to ensure that they are not applied any longer than the rationale that occasioned them continues, and in particular to ensure that listings do not become permanent (and therefore punitive) through neglect. An effective review also enhances political support for the sanctions regime and decreases the likelihood that legal challenges, when they do occur, will succeed. Finally, the chance of a review may help persuade listed individuals and entities to end their support for Al-Qaida and the Taliban.

42. The 6(i) process has been conducted only once, and any judgement of its effectiveness is therefore very preliminary. Nevertheless, given the results of the first review, the Team recommends that the Committee consider changes to the process, in particular to increase the number of listings selected for review each year. A more progressive approach would be to invert the Guidelines' current rule, and create a presumption that every listing that has not been updated for four years or more will be reviewed during the 6(i) process, unless a Committee member asks to exclude it. Or, according to agreed criteria, the Committee could require that a minimum number of names from the pool of those qualifying be reviewed each year.

43. In any case, the Committee should clarify what happens to names that are included in the 6(i) pool but are not selected by the Committee for review. A plain reading of the guidelines suggests that these names would also be considered in the next year's 6(i) review, if no updates had been made. However, some States have told the Team that they interpret the guidelines to mean that such names, once considered for review, cannot come forward again for another four years. This would seem contrary to the objectives of the review.

44. It is also worth considering whether all updates to an entry should be treated equally for the purposes of a 6(i) review. The current rule seems to suggest that even a very minor update would remove a listing from the pool eligible for review. One possible solution would be to limit the types that count under the four-year requirement to specified categories; for example, the addition of identifiers or definitive information about current whereabouts, convictions or incarcerations. Even then, the Committee may wish to distinguish further between significant and negligible updates to these categories, so that minor changes do not return listings to the start of the process.

45. The Committee might also consider making the list of names selected by the Committee for review public, perhaps on its website. This would have two benefits; first, it would advertise that the Committee is undertaking such a review, improving the public perception of the fairness of its procedures; and second, it might attract updates or other useful information from a broader range of sources than those currently mentioned in the guidelines (designating State, State of residence, State

of nationality). The Team also suggests that the Committee continue to make clear that the review process does not prevent a member of the Committee, or any other Member State, from submitting additional information on a listing, or proposing a name for de-listing, at any other time, according to established procedures.

46. The Committee may also wish to clarify the relationship between review and possible de-listing under paragraph 6(i) of its Guidelines and the procedures for de-listing at paragraph 8. Among the issues for the Committee to consider are whether, in consulting the designating State and the States of residence or nationality, the Committee should invite their opinion on whether the person should remain listed, or even offer the opportunity to the State or the listed person to submit a de-listing petition as part of this process.

47. The Team notes that a system that reviewed all listings on a periodic basis, regardless of updates, would avoid many of the problems discussed above. With this in mind, the Team suggests as an alternative a review of every name on the List on the fourth anniversary of its listing, and at the same or shorter intervals thereafter in order to ensure that the List remains as up to date and relevant as possible.

48. Finally, it is worth noting that since the Security Council first adopted sanctions against the Taliban in resolution 1267 (1999), it has frequently reviewed and revised the entire sanctions regime. Most recently, paragraph 33 of resolution 1735 (2006) provides for review of the sanctions after 18 months. This regular review of the continued validity of sanctions and the methodology used to impose them plays an integral part in providing the due process needed to keep sanctions fair and viable.

B. Partial and global listings

49. In a number of cases, the Committee has chosen to list only particular offices of an entity while leaving others untouched. It has used two methods to do this. Either it has created individual listings for particular countries where the organization is present, as with the 14 listings for Al-Haramain[50] or the individual listings for the Philippines and Indonesia branch offices of the Islamic International Relief Organization (IIRO) (QE.I.126.06. and QE.I.127.06 respectively). Or, for the Revival of Islamic Heritage Society (RIHS) (QE.R.70.02), the Committee has created a single List entry for the organization but specified that the listing applies only to certain branches by stating: "NOTE: Only the Pakistan and Afghanistan offices of this entity are hereby designated".[51]

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[50] See Al-Haramain & Al Masjed Al-Aqsa Charity Foundation (QE.A.109.04.); Al-Haramain Afghanistan Branch (QE.A.110.04); Al-Haramain: Albania Branch (QE.A.111.04); Al-Haramain: Bangladesh Branch (QE.A.112.04.); Al-Haramain: Ethiopia Branch (QE.A.113.04.); Al-Haramain Foundation (Indonesia) (QE.A.103.04.); Al-Haramain Foundation (Pakistan) (QE.A.104.04.); Al-Haramain Foundation (Union of the Comoros) (QE.A.116.04.); Al-Haramain Foundation (United States of America) (QE.A.117.04.); Al-Haramain Islamic Foundation (QE.A.71.02.); Al-Haramain Islamic Foundation (QE.A.72.02.); Al-Haramain: The Netherlands Branch (QE.A.114.04.); Al-Haramayn Foundation (Kenya) (QE.A.105.04.); and Al-Haramayn Foundation (Tanzania) (QE.A.106.04.).

[51] The Consolidated List as updated on 21 September 2007.

50. Some Member States have expressed confusion over these country-specific listings. For example, one Member State has frozen assets of RIHS* offices in its territory despite the statement in the List that "[o]nly the Pakistan and Afghanistan offices of this entity are hereby designated". Another State has taken similar action against RIHS*, and has also frozen assets of a local branch of the Taibah International Aid Agency (QE.T.108.04), even though only its offices in Bosnia and Herzegovina are listed. The Team suggests that the Committee provide guidance on such partial listings of multi-national entities, in particular to explain the scope of interaction permitted under the assets freeze between listed and unlisted offices.[52]

51. Others have questioned the meaning of listings for multinational organizations which are not expressly limited by one of the methods above. For example, whether the single listing for the Global Relief Foundation (QE.G.91.02) (GRF) applies to all offices of the organization world-wide, or only those mentioned in the address section of the listing, which details the specific location of branches in seven countries, and notes 16 other countries where the organization is known to exist. The absence of guidance on this point has led some States to conclude that such listings apply to offices not specifically mentioned: one State, for example, has reported freezing assets of a local office of Al-Barakaat (QE.A.24.01) even though the List entry for the organization does not specify a location in that country.

52. At the same time, other States interpret country-specific designations by the Committee to mean that sanctions apply only to offices mentioned on the List, even for listings like GRF*. Some States are further inclined towards this interpretation by domestic laws which provide that a branch of a foreign entity in their territory has an independent existence from its global parent. The Committee may wish to clarify the appropriate reading of such listings and to establish a uniform approach to make its intent explicit.

53. These problems do not arise where all offices of an organization are known – such listings can be limited specifically to these offices (preferably with all listed simultaneously to avoid allowing some an opportunity to hide their assets).[53] But often it cannot be known with certainty that all offices of an organization have been identified in one country, let alone worldwide. In one State where six locations of an organization were noted, the Team found information indicating that more than 25 offices were or had been in operation. In another, authorities informed the Team that an organization with one location listed in the State's capital had various regional branch offices

54. Accordingly, the danger of narrowly interpreting listings like GRF* is that unmentioned offices will be able to move assets to safety before they are identified and added to the List. The Team therefore recommends that the Committee make clear that, where not expressly limited to particular offices, listings apply to all offices of the organization in all Member States, whether mentioned specifically or not. This could be done by stating explicitly in future listings that the listing includes all such branches and subsidiaries. This would be straightforward for new listings, but it could be burdensome to amend existing listings to reflect this interpretation. As an alternative, this

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[52] In particular, the Committee may wish to consider the obligation to freeze "funds derived from property owned or controlled, directly or indirectly, or by persons acting on their behalf or at their direction", resolution 1735 (2006), para. 1(a).

[53] See the Team's previous discussion on this point in its fifth report (S/2006/750, paras. 69-70).

interpretation could be established as a default rule in the introduction to the List itself, which would have the advantage that it could then be read to apply to both existing and future listings. Of course, neither option would preclude the Committee from explicitly limiting listings to particular offices by one of the methods described above.

55. This broader approach would require States to investigate whether organizations within their jurisdiction with the same name or other characteristics in common with a listed entity are indeed part of it. It also presents the risk that the assets freeze will be applied to organizations unconnected to the listed entity. But the relevant resolutions already encourage States to look for such connections and already give States discretion to decide whether assets in their territory belong to a listed entity.

56. The more difficult problem is the constraints some States face under their domestic laws against imputing the application of sanctions against unmentioned offices of a listed organization in their territory. With this in mind, the Committee may wish also to consider alternatives to a mandatory rule, such as guidance that urges States to interpret listings in this manner without requiring it. The Team stands ready to assist the Committee in further considering this issue, and to provide written analysis as needed. Regardless of whether this interpretation is adopted as a mandatory rule or guidance, States that find unmentioned offices in their territory should be urged to alert the Committee to their discovery and to submit information about the branch for listing.

V. ASSETS FREEZE

57. Inevitably, the effect of the assets freeze is generally measured in terms of the amounts of assets frozen, but this overlooks the unquantifiable deterrent effect of the assets freeze on potential donors and its inhibiting effect on listed groups that have had to find alternative and perhaps more costly ways to move and store their money. The Team estimates that approximately $85 million remains frozen under the sanctions regime, down from the $91.4 million quoted in its last two reports.[54] The reduction reflects the action of one State's discovery that assets it had reported frozen did not in fact belong to a listed party, and the deduction of Taliban assets that had been frozen but were later released to the Afghan Government. Two additional States have frozen assets since the Team's last report, which brings the total of States that have reported doing so to 36.

58. The Team knows of 435 freezing actions taken by Member States involving the assets of around 165 of the 489 individuals and entities on the Consolidated List, primarily in bank accounts. The Team calculates that over 95 per cent of the total value of assets reported frozen results from the freezing actions of nine States. However, several States, whilst reporting that they have frozen assets, have not revealed the amount, and a significant number of States have not said whether they have taken freezing actions or not. It can be assumed that some will have done so.[55]

59. Clearly, the chance of finding assets is greatest immediately following a listing, and the Team has not seen evidence that any asset of a listed individual or entity has been identified and frozen as a

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[54] S/2006/750, para. 59 and S/2007/132, para. 50.

[55] Annex III – Impact of listings on the value of frozen assets.

result of an update to the List, even when that has made the identity of the listed party much clearer. Not all new listings lead to assets being found and frozen and of the 29 new listings since January 2006, the Team knows of specific freezing actions only in relation to four.

A. General observations

60. A Team visit to one State found that it had no legal basis to freeze assets and therefore did not see any reason to circulate the Consolidated List to banks. It now appears that this problem is far more widespread than previously thought. Several Member States that have reported an ability to freeze assets under the 1267 sanctions regime in fact do not have it, as they require a court judgement before taking action. Other States that assume they have the necessary legislation to take immediate action may find it wanting if and when they discover assets to freeze. For example one State told the Team that while it lacked a specific law to implement the assets freeze measure, it could invoke a provision in the penal code relating to illegal organizations and associations to achieve the same effect. The Team noted however, that for the relevant provision to be invoked, it would require the President to issue an order declaring the listed entity an illegal organization, which had not yet been attempted, and at the very least would introduce a delay in implementation.

61. Another State told the Team that it planned to implement the assets freeze through legislation to criminalize entities listed by the 1267 Committee which would also facilitate the application of measures beyond the freezing of their assets. These might include confiscation of their assets, closing the entities down, or forcing them into liquidation. However the Team notes that the regime does not require such action, which could in fact create problems with implementation as listings are not designed to meet the procedural requirements of a criminal statute.

62. Any delay between a listing becoming public and the measures taking effect in all Member States may allow the listed party to move assets out of the reach of sanctions. Because some States insist on receiving a hardcopy, formal notification of a new listing in their capital before taking action, and the time for this to arrive varies, targets may become aware of the measures imposed on them before authorities in the State or States where they have assets receive and implement the notification of their listing. It recommends therefore that following a listing decision, the Committee alert the relevant State or States where funds or economic resources are known or believed to be located immediately before circulating the notice of the listing more generally.

63. This issue is also relevant to the reporting requirements requested of States in accordance with resolutions 1455 (2003) and 1617 (2005). These requests for implementation reports apply to all States but have proved unpopular with many because of the administrative burdens they impose. However, the information most likely to be of value to the Committee will come from the State(s) where the listed individual or entity operates or seeks to operate. There should be more urgency attached to receiving reports from these States than from others, and the Team recommends that the Committee reduce the burden of reporting on States by targeting its requests for information more precisely, perhaps also mandating the Team to collect it rather than pressing the State to deliver it on its own.

64. Implementation of the sanctions regime demands action by States rather than by the targets of the measures, but the assets freeze would be more effective if listed individuals and entities were required to disclose their assets in the same way that some States require a traveller to declare what cash he is carrying in excess of a certain amount when he crosses into their territory. The Team has already recommended that States require that anyone under their jurisdiction disclose to the authorities any knowledge concerning the assets of a listed person (S/2007/132, para 65.), but it further suggests that the Committee recommend that States also place similar obligations on listed parties themselves. This requirement could be reported to individuals and entities along with notification of their listing (resolution 1735 (2006), paras. 10-11).

65. Finally, some Member States require anyone opening a bank account in their name but on behalf of another party to disclose this fact to the bank or financial institution concerned, or face criminal charges. The Team sees this as a measure that would also make it harder for listed parties to benefit from nominee accounts.

B. Help desk

66. It is a common complaint that the List does not in all cases include enough identifiers to allow an easy determination of who is meant by the listing. States are left to determine how to apply these listings, or, if in difficulty, to refer the matter to the Committee, which will then bring in the designating State(s) to help. But the problem is more immediate and harder for private bodies like banks which must comply with the sanctions but have no way of checking quickly whether a proposed transaction involves a listed party when the details on the List are not specific. The Team has previously recommended that each State establish a national body to oversee the implementation of the sanctions regime, and now suggests that this body could also act as a 'help desk' to deal with such problems.

67. This is not to allow banks and others to pass back their due diligence responsibilities to the State, but banks have informed the Team that in such circumstances, if their regulating authorities are not able to provide clarification at short notice, they simply process the transaction (money transfer or withdrawal) and later report it through a suspicious activity report (SAR).[56] In view of the regulations governing the time allowed for filing these reports in some States,[57] by the time the activity comes to official attention the funds are long gone.

68. A national 'help desk' would be of most value if States could deal directly with the designating State without having to go through the Committee, but several States say that they would be less inclined to submit new names for listing if they were to be recorded on the List as the designating State. In any case, States,[58] regional organizations[59] and private bodies recognize that it

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[56] Information provided to the Team by officials from the bankers association in a Member State.

[57] Up to 30 days in some States.

[58] According to one State visited by the Team, the Committee should directly provide the additional information to requesting States even if the sources of the additional information were designating States.

[59] Council of the European Union best practices for the effective implementation of restrictive measures, Annex 11679/07, para. 15 (9 July 2007).

is the Committee that owns the List, and it is for the Committee to decide how to deal with requests for more information from States for implementation purposes.

69. The Committee has dealt with such requests principally in two ways: it has provided the answers directly to the requesting State, or it has referred the request to the designating State(s). The Committee has no means of evaluating the effectiveness of this referral system, let alone of knowing whether the designating State ever provided information to the requesting State. During one country visit, the Team learnt that the State was still waiting for a reply after three years.

70. Requests for further information should not be seen as a way to question the rationale behind a listing, but rather as a means of improving implementation. Concerns regarding the confidentiality of information may limit the dialogue between requesting States and designating States, but it appears that when a requesting State supplies as much information as possible under their own disclosure laws, the task for the designating State is much easier, often allowing a simple confirmation that the subject of the enquiry is or is not the listed party. When the designating State cannot answer the enquiry, it should let the Committee know so that the Committee can look for possible alternative sources of information.

71. The Team also recommends that the Committee mandate it or the Secretariat to keep a list of all requests for additional information received by the Committee, noting whether they have been passed to the designating States and what reply has been received. The Team or Secretariat could also ask the requesting States how implementation had been affected at the end of the process. The Team recognizes that there are national and international laws that limit the exchange of information between States, but international cooperation is essential for the effective implementation of the assets freeze. It proposes to examine further the possibility of a more active role for the Committee and the Team in processing requests for information between States concerning entries on the List.

C. Offshore entities

72. Offshore entities, also called International Business Corporations (IBC) are companies, trusts, entities or corporate vehicles registered in an offshore financial centre (OFC). They are incorporated to own and operate other businesses/entities, issue shares, bonds, or raise capital in other ways. IBCs are often used to create complex financial structures and in some cases residents of the OFC may act as nominee directors or shareholders to conceal the identity of the true company directors or shareholders. In some OFCs, bearer share certificates may be used, in others, registered share certificates are issued, but no public registry of shareholders is maintained. Generally speaking therefore, regulators or other authorities in most OFCs will not require information on the trusts or investors who are conducting business there. Indeed, some centres have legislation which makes the release of information on beneficial owners of shares, held on their behalf by lawyers or other company incorporation agents, a criminal offence, unless under exceptional circumstances.

73. As a result, offshore entities present particular challenges for regulatory authorities, including (i) identifying where the business actually operates, which may be in cyber-space; (ii) examining accounts; (iii) identifying assets and their whereabouts; (iv) identifying beneficial owners of IBCs,

and (v) noting any change in their legal status, which can be slow to filter through international financial systems, even when this involves the cancellation of registration or licenses. These factors are what make IBCs and OFCs attractive to investors who are looking for anonymity and the ability to operate without official scrutiny.

74. The Consolidated List includes four entities that are incorporated in States which are well known as OFCs, and at least two individuals linked to non-listed IBCs.[60] However, the States of incorporation, residence or nationality for these entities and individuals have not reported any freezing actions under the sanctions regime, and only one other State has taken action against one of the entities which operates within its jurisdiction. It is as if the other entities had no assets at all.

75. For their part, the States of incorporation have simply revoked the registration of IBCs following their listing without ever tracing their assets. It is likely that they know as little about the IBCs' place of business as the States where they operate know about their ownership. There is therefore a risk that an IBC will continue in business in a foreign jurisdiction even after deregistration or the loss of its licence, especially where States have not obliged banks to implement regular 'know your customer' (KYC) reviews.

76. The Team believes that States are better placed to implement the asset freeze measures against listed IBCs and their owners if:

a. they check beneficial owners, directors or managers of IBCs against the Consolidated List;

b. they are able to pass information to other authorities concerning individuals and entities that appear on the Consolidated List;

c. they are informed by States in which many IBCs choose to register when the registration is revoked;

d. their banks and other relevant bodies implement frequent, perhaps annual, 'know your customer' reviews;

e. if the Committee is informed when a listed IBC is placed under receivership; and

f. if they prohibit the issuance of bearer shares, or the opening of bank accounts for entities with such shares.

77. The Team has previously recommended that States ensure that company registration offices screen new companies and their directors and owners against the List (S/2006/750, para. 79). The Team also believes that this exercise should be repeated regularly to take account of any changes in ownership post registration.

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[60] Information provided to the Team by Member States.

D. Improving sanctions compliance

78. A 2007 survey of 224 banks in 55 jurisdictions noted the rising cost to private institutions of anti-money laundering and combating the financing terrorism (AML/CFT) activities.[61] Average AML/CFT spending by these banks had increased by 58 per cent between 2004 and 2007,[62] with the greatest increase in transactions monitoring systems, employee training and sanctions compliance programmes. Although the banks had continued to invest in technology to monitor customers' banking transactions, almost all said that they relied on alert personnel to identify suspicious transactions and/or perform further analysis of initial reports generated from such systems, so emphasizing the importance of well-trained staff.[63]

79. In order to assist their efforts, banks consistently ask their regulatory and other authorities for guidance on the patterns of activity they should look for. Some authorities have responded, or are trying to respond; but the Team believes that lists of indicators can be dangerous if they seem to exclude others. The Team has not discerned any regular patterns in terrorist financing, and any indicators can only be partial and must be updated as new investigations reveal new methodology. The growing convergence between methods of terrorist financing, especially at a local level, and other criminal activity, has made it harder still to distinguish one from the other.

80. However, in an effort to help banks and other financial institutions, the Team has discussed the issue widely and has approached a range of States where terrorist crimes have been investigated to see what lessons can be learnt and experiences shared. It will report its findings to the Committee with appropriate recommendations as to how best to share this information without alerting the targets of the sanctions.

81. Transactions filtering systems, which allow an automatic comparison between listed names and customer databases or parties to customers' transactions, can cost more than smaller banks can afford. There are however systems available freely on the Internet which banks or other obligated parties can access directly or download to work off-line. These databases generally contain lists of individuals and entities subject to national measures, but also include individuals and entities related to United Nations sanctions regimes. The Team would not wish to recommend any particular online filtering database from the range available, but is open to discuss them with States if asked. Any institution planning to use such systems would have to consider such things as the language of the database, the availability of technical support and the likely expense of maintenance in the short and long term.

E. Successor organizations

82. The Team continues to receive reports of pre- and post-listing transfers of assets (especially non-monetary assets) and key personnel from listed entities to other existing or newly-founded bodies which perform functions similar to the overt business of the listed organization. Many post-listing

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[61] KPMG International, *Global Anti-Money Laundering Survey 2007*, p.46, www.kpmg.com/Services/Advisory/Other/AML2007.htm.

[62] Ibid., p.7.

[63] Ibid., p.33.

transfers appear to occur because Member States fail to apply the sanctions to the non-monetary property of listed organizations, allowing transfers of vehicles, real estate, office equipment and other assets. In other cases, States appear to have allowed such transfers based on their assessment that the receiving organization is not engaged in support of terrorism or other questionable activity (S/2006/750, para. 74).

83. The Team renews its recommendation that the Committee remind States of their obligation to freeze all assets of a listed entity and not allow them to be transferred or used by others, even for purposes believed by the Member State to be legitimate, except pursuant to exemption obtained under resolution 1452 (2002).[64] At the same time, the Committee could encourage States to apply the freeze to pre-listing transfers that appear intended to evade the assets freeze (subject to the requirements of domestic legislation).[65] Although this recommendation is directed primarily at future listings, the Committee may wish to provide more specific, targeted guidance to States where such transfers are known to have occurred already.

84. The Team further recommends that the Committee take steps to address the broader problem of Member State failure to track and freeze the non-monetary assets of listed entities. In the Team's experience, the value of real estate, vehicles and equipment often greatly exceeds the operating cash kept in an organization's bank account, especially where an organization has had advanced warning of a listing and an opportunity to move more liquid assets elsewhere. Failure to track such non-monetary assets not only weakens implementation of the sanctions, but makes it more difficult for State authorities to determine whether a listed entity continues to operate. At a minimum, the Committee might remind Member States that by referring in paragraph 1(a) of resolution 1735 (2006) to "funds and other financial assets or economic resources", the Security Council has indicated that "funds" are only one subset of the broader universe of "financial assets" to which the sanctions apply, and that "economic resources" are something additional to either of these. And to the extent there is any remaining doubt whether this term applies to non-monetary property, the confirmation in paragraph 3 of resolution 1735 (2006) that "the requirements in paragraph 1(a) […] apply to economic resources of *every kind*" (emphasis added) should remove it.

85. The Committee could provide further guidance on this point by placing on its website a non-exclusive list of specific types of non-monetary property encompassed by the sanctions.[66] The Committee provided such a non-exclusive list (in a note verbale) for the "funds and financial resources" covered by paragraph 4(b) of resolution 1267 (1999).[67] Similarly, the Security Council Committee established pursuant to resolution 1518 (2003) maintains a non-binding, non-exclusive list of "funds and financial assets" and "economic resources", suggesting that the latter includes: "[a]ssets

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[64] Ibid.

[65] See discussion ibid., para. 75.

[66] See the Team's previous suggestion for definition of the assets covered by the assets freeze in its sixth report (S/2007/132, box 4).

[67] SCA/7/00 (3) (dated 12 April 2000); see also SC/6844 (quoting relevant portions of the note verbale). At the time, the sanctions regime applied only to "funds and financial resources," and then only to those related to the Taliban. See resolution 1267 (1999) para. 4(b). Resolution 1390 (2002) established a broader assets freeze which also included "economic resources". The definition in the note verbale appears to have been mandatory: Member States were "required to freeze the funds and financial resources" as designated in the list of specific examples provided by the Committee. Any list of non-monetary property established by the Committee, of course, need not be so, as the example below shows.

of every kind, whether tangible or intangible, movable or immovable, which are not funds."[68] Other States and international working groups have established definitions with useful specific examples of non-monetary assets such as "real property, including land and fixtures to land", "moveable property, including goods and chattels", "bullion", "precious stones",[69] "wares", "merchandise", and "ships".[70] Any list of examples established by the Committee need not be long but should have enough concrete examples to alert Member States to their obligation to freeze non-monetary property.

86. In addition to providing guidance on assets, the Committee may wish to help States recognize when an organization is a successor to a listed entity. This could include, for example, listing possible indicators such as: (i) having the same directors or other key employees as the listed organization; (ii) having common shareholders or ownership; (iii) having the same address; (iv) carrying on activities similar to those of the listed entity in the same place and in cooperation with the same partners; (v) in the case of charities, having the same donors; (vi) paying the debts or satisfying other obligations of the listed entity; (vii) having received financing from, or provided financing to, the listed organization; (viii) having commingled accounts or joint investments; (ix) having commingled operations; (x) the listed entity having caused incorporation of the new organization; (xi) having treated the other entity's property as its own; or (xii) having a history of consolidated financial statements or tax returns. Case studies illustrating particular examples would also be helpful, and the Team is ready to assist as needed.[71]

87. Finally, the Committee could continue to encourage States to propose additional listings and updates that guard against attempts to circumvent the sanctions through successor organizations. In particular States should designate and monitor the activities of individuals who direct the operations of listed organizations or are otherwise involved in their support for Al-Qaida and the Taliban (S/2007/132, para. 15). This would help to alert States to the creation of successor organizations, and ensure that the assets of any successor body controlled by such persons will be frozen. At the same time, in cases where such persons acquire control over an otherwise legitimate organization, it allows the organization to protect itself from sanction by severing ties with the listed individual. Likewise, the Committee should continue to encourage States to update the entries of listed organizations with the names of new incarnations intended to operate on their behalf.

88. As experience with freezing assets grows, so too does the accumulation of good practice. Both the Council of the European Union[72] and the Financial Action Task Force (FATF)[73] have collated

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[68] See Non-Paper on the Implementation of paragraph 23 of resolution 1483 (2003), www.un.org/sc/committees/1518/pdf/Non-paper.pdf.

[69] Watson Institute for International Studies, *Targeted Financial Sanctions: A Manual for Design and Implementation: Contributions from the Interlaken Process* (2001).

[70] United States Code of Federal Regulations, Title 31, Section 594.309 (2007) (defining property covered by sanction to include, but not to be limited to: "goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, [...] and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.").

[71] Examples could be drawn from the experience of Member States, such as the alleged emergence of the Al-Akhtar Trust International (QE.A.121.05) from the Al Rashid Trust (QE.A.5.01), (see www.ustreas.gov/press/releases/js899.htm). In the same vein, it would be helpful to have indicators and examples of pre-listing transfers intended to evade sanctions, to help Member States recognize and invalidate such transfers.

[72] Council of the European Union best practices for the effective implementation of restrictive measures, op.cit.

[73] For example see: FATF/OECD, Freezing Terrorists Assets, International Best Practices, 3 October 2003, www.oecd.org/dataoecd/30/43/34242709.pdf.

such information and the Team applauds this work. It believes that any move towards global harmonization in the application of the assets freeze measure will make it harder for the Taliban and Al-Qaida-related terrorists to exploit weaker systems.

VI. TRAVEL BAN

89. The objective of the travel ban is to prevent listed individuals from crossing borders unless specifically authorized.[74] It is a potentially powerful tool, especially against the more visible listed associates of Al-Qaida and the Taliban, such as financiers, who may find it less easy to adopt a false identity. Full and comprehensive implementation of the travel ban would provide real dividends in countering Al-Qaida/Taliban terrorism, but the evidence suggests that its current impact is limited.

90. A principal weakness arises from the need for States to allow the movement of large numbers of people across their borders without undue delay while seeking to prevent the entry or transit of the small group of determined, patient, and adaptable terrorists who feature on the Consolidated List. While greater international cooperation on law enforcement, intelligence and diplomatic fronts, and improved border control systems in Member States, have all made terrorist travel more difficult, the key to successful implementation of the sanctions regime is the amount of accurate detail on the Consolidated List. Recent improvements to the List, especially with respect to the current status and whereabouts of listed individuals, will help immigration and border authorities to make swift decisions with less risk of inadvertently allowing a listed person to pass.

91. But more must be done. The List now records that 18 listed individuals have been extradited, expelled, deported or repatriated from one State to another, but States have not been reporting this information in a timely fashion as they are encouraged to do by paragraph 9 of resolution 1735 (2006). The Team has however managed to collect information on additional cases, which it will submit to the Committee for possible addition to the List. Similarly, the List lacks detail on the travel documents held by listed people, although the Team knows that in some cases even new documents have been issued.

92. There are a number of tools that States can use to help prevent listed individuals from travelling internationally. One is the pre-departure Advance Passenger Information System (APIS) which allows States more time to vet passengers by obtaining their details before arrival. The Team suggests that the Committee recommend wider use of the APIS by Member States in support of the sanctions regime, and that such systems include processes for checking passengers against the Consolidated List. Another potentially effective practice adopted by some States is to require inbound foreign travellers to provide additional documents to confirm the purpose of their travel, and in doing so, allow officials to verify more comprehensively the applicants' identities than would be possible on the basis of a single travel document. The inventory of Member States experiences in implementing

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[74] Meaning "where entry or transit is necessary for the fulfilment of a judicial process or the Committee established pursuant to resolution 1267 (1999) ("the Committee") determines on a case-by-case basis only that entry or transit is justified", resolution 1735 (2006), para. 1(b).

the sanctions, available on the Committee website, could include such practices in case other States might also find them appropriate.

93. A significant challenge to the travel ban is the ability of listed individuals to travel under a false identity. In accordance with paragraph 23 resolution 1735 (2006), the Committee has increased cooperation with the International Civil Aviation Organization (ICAO) and has decided to promote wider adoption of ICAO standards regarding travel documents. Many countries have made significant progress in this area by issuing e-passports or inserting machine readable lines and other modern security features into older generation documents. But the work is far from complete, especially in States which have introduced such safeguards but themselves lack the necessary equipment to make use of them. Given the value of false travel documents to terrorists, the Team recommends that Member States should make a special effort to identify and submit for listing people who provide false or fraudulent documents to listed individuals and entities on the basis of their association with and support for Al-Qaida, the Taliban and their associates.

94. In its fifth report (S/2006/750, para. 89), the Team recommended that Member States participate actively in the International Criminal Police Organization (INTERPOL) Stolen and Lost Travel Document Database (SLTD). This database now includes details of 7.5 million passports and 8.3 million other types of travel documents, such as identity cards and visas, from 128 countries. Searches of this database since 2002 have resulted in 7,583 positive responses.[75] By scanning a machine-readable passport, a national immigration officer can find out in a few seconds whether it is recorded in the INTERPOL database which is accessible either online or through a stand-alone mobile database.[76] However, all but 19 INTERPOL Member States only have access to the SLTD through their National Central Bureaux (NCB) rather than directly at all points of entry. The system therefore has considerable unexploited potential to prevent listed individuals from crossing international borders with lost or stolen travel documents.[77]

95. Since the start of the sanctions regime, the Committee has foreseen the possibility of exemptions to the travel ban. Paragraph 1(b) of resolution 1735 (2006) mentions three circumstances in which it might not apply: where entry is sought by a national of the State; where entry or transit is necessary for the fulfilment of a judicial process, or where the Committee determines on a case-by-case basis only that entry or transit is justified. There are no limitations expressed regarding the grounds for exemptions, and this last category would seem to allow a listed individual to apply for an exemption for any purpose. But there is no standard procedure for doing so and the Team recommends that the Committee expand its guidelines to provide one.

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[75] In 2002, INTERPOL began with 10 participating countries and about 3,000 passports entered on the database. Use of the SLTD database grew to nearly two million searches per month in 2007. With the help of the database, approximately 400 travellers a month are now intercepted carrying passports that are reported lost or stolen. Source: www.interpol.int/Public/News/2007/OpEd20070816.asp and INTERPOL officials.

[76] Through two initiatives known as the Fixed INTERPOL Network Database (FIND) and the Mobile INTERPOL Network Database (MIND) that were described in the Team's sixth report (S/2007/132, annex II).

[77] For instance, a known war criminal wanted by INTERPOL Member States was able to travel through 16 countries and to cross borders more than 40 times using a falsified passport stolen in 1999 and reported to INTERPOL in 2003, until he was captured in December 2005. Access to INTERPOL SLTD at points of entry in any of these 16 countries might well have resulted in his apprehension much sooner. Source: www.interpol.int/Public/ICPO/speeches/SGstatement20070502.pdf.

96. The possibility of an exemption for religious purposes, such as pilgrimage, is an important one and is mentioned specifically in paragraph 6 of the Fact Sheet on the Travel Ban and its exemptions.[78] The expression of faith and the fulfilment of religious duties are of fundamental importance to a great number of people around the world, whether Christian, Hindu, Muslim or of any other persuasion. For example, Muslims must observe the five pillars of Islam as part of their belief, one of which is performance of the hajj. This involves travel to Mecca. The Government of Saudi Arabia, as the custodian of the holy places (Mecca and Medina) sees an obligation towards Muslims to allow them to perform their religious duties, and at the same time Saudi Arabia must observe its international commitments under the travel ban. Its ability to do so would be facilitated if exemption issues were handled prior to submission of a visa application for a listed persons' entry into its territory. The Team recommends that the Committee makes clear on its Fact Sheet that while travel in performance of a religious obligation is adequate grounds on which an individual may apply for an exemption, they should obtain such exemption before undertaking their journey, through their State of residence or nationality.

VII. ARMS EMBARGO

97. The Monitoring Team has continued to collect information from Member States on the Al-Qaida/Taliban arms embargo and has found three main challenges to its goals. The first is that some States appear not to have done enough to ensure implementation; the second lies in the diverse ways that States interpret their obligations, and the third relates to the scope of the arms embargo and its relevance to the constantly evolving methodology of its targets.

A. Implementation of the arms embargo

98. Almost all Member States agree that strict implementation of the arms embargo would diminish the threat from Al-Qaida, the Taliban and their associates. However, some States appear not to appreciate the full range of their responsibilities in this regard, and the Team has brought some possible cases of non-compliance to the attention of the Committee as directed by paragraph f, annex II of resolution 1735 (2006). In particular, the Team noted that listed individuals and entities had received arms and training in Afghanistan, Iraq and Somalia.[79]

99. In general, States need to do more than rely on existing national rules and regulations governing the ownership, import, transfer or export of arms. The Team believes that such pre-existing legislation is unlikely to enable full implementation of the Al-Qaida/Taliban arms embargo unless modified to take account of the fact that it should be directed against listed individuals and entities. In addition, some States have not devoted sufficient resources and attention to implementing the arms embargo, whether due to a perceived lack of threat, internal political factors, or limited capacity. For example, States in the Sahara region have found it difficult to deal with mobile terrorist training camps run by Al-Qaida in the Islamic Maghreb (QE.T.14.01.).

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[78] See www.un.org/sc/committees/1267/pdf/factsheet-on-travel-ban.pdf.

[79] Information obtained during the Team's visit to Afghanistan and Pakistan in May 2007; the Team's fifth report (S/2006/750, para. 129); and Monitoring Group on Somalia reports (S/2005/625 and S/2006/229).

B. Member States understanding of their obligations

100. Access to arms and training is a crucial element for Al-Qaida and the Taliban in their preparation for terrorist attacks. Yet, regrettably, the aggregate information obtained by the Team suggests that implementation of the Al-Qaida/Taliban arms embargo has in general not been given the same attention as the other two sanctions measures. This may be because the scope of the arms embargo is widely misunderstood to be limited to arms, although the wording in operative paragraph 1(c) of resolution 1735 (2006) makes no reference to a classic or traditional arms embargo and explicitly defines the measure as applicable to military and paramilitary equipment "of all types", as well as technical advice, assistance or training related to military activities. The paragraph also mentions the responsibility of States to prevent direct and indirect provision of arms or training from all their territories or by their nationals, including flag vessels and aircraft, outside their territories. This conceptual gap has created potential for partial implementation.

101. Non-compliance may also arise from the failure of States to act in full accordance with their obligation to prevent "indirect supply, sale, or transfer" to those on the List, including the need to control the end destination of arms shipments through end-user licensing and similar measures. The Team recommends that the Committee consider encouraging the creation of mechanisms, both in Member States and at an international level, to ensure that neither buyers of arms or related material, nor their intermediaries or end users appear on the Consolidated List or are acting under the direction or on behalf of any listed individual or entity.

102. To the extent that States are focused on preventing the export of arms, material and training from their territories, many yet fail to focus on related actions by their nationals outside their borders, as required by paragraph 1(c) of resolution 1735 (2006). This is particularly true with regard to technical advice, assistance, and military training and may in part be caused by the difficulty States have in exercising control over their nationals operating within the jurisdiction of another State, or in conflict areas where no effective central government exists. But nonetheless, the Team believes that Member States should establish clear legal prohibitions against such activities and also provide for effective international cooperation in the investigation and apprehension of violators. To enhance such cooperation, States should seek to remove legal obstacles to sharing pertinent information with other governments and relevant international and regional organizations, and in particular ensure that such cases are brought to the attention of the Committee.

103. To help States understand their obligations under the arms embargo, the Team has drafted an 'explanation of terms' paper (SCA/2/06(20)) which is available on the Committee website.[80] To give this paper more impact, the Committee might consider attaching it to its guidelines. Other suggestions by the Team, and the reaction of the Committee to them, can also be found on its website[81] and the Committee may see value in drawing the separate papers together into one document that records its current position on all the Team's proposals.[82]

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[80] www.un.org/sc/committees/1267/usefulpapers.shtml.

[81] www.un.org/sc/committees/1267/exptgrouprec.shtml.

[82] S/2005/760, S/2006/635, S/2006/1047 and S/2007/229.

C. Developing the scope of the arms embargo

104. The arms embargo is a traditional measure which has been used many times by the Security Council to address threats to international peace and security.[83] While the various regimes have many elements in common, there are also significant variations. In most regimes, the assumption has been that the embargo will only cover materiel produced for military use, but in many of the major attacks executed directly or indirectly by listed entities outside conflict zones, the explosives used have been either produced for civilian use or home-made. The Al-Qaida/Taliban arms embargo, insofar as it draws on previous regimes, will deal less successfully with the asymmetric warfare capabilities of Al-Qaida, the Taliban and their associates unless States pay attention to the objectives that lie behind it. In addition, while the threat from Al-Qaida and the Taliban has evolved considerably since the adoption of resolution 1390 (2002), the language of the arms embargo has remained unchanged. Therefore, the Team believes there are several areas where the arms embargo could be made to have greater effect on the asymmetric capabilities of listed entities.

1. Improvised and civilian explosives

105. There remains an urgent need for Member States to deal with improvised and civilian explosives. The Team has noted that Al-Qaida, the Taliban and their associates will use whatever explosives are available, for example military grade explosives in areas of conflict, or the necessary components to improvise an explosive device, such as ammonium nitrate, elsewhere (S/2007/132, para. 90). While the Team and many States believe that the term "arms and related material of all types" (resolution 1735 (2006), para. 1(c)) applies equally to military, civilian and improvised explosives, some have commented that it would be impossible to interdict the provision of civilian explosives or the materials for home-made bombs. But, the Team sees an opportunity to address the issue through the arms embargo, and recommends: (i) that the Committee explicitly include civilian and improvised explosives in its explanation of terms document; (ii) that the Committee assembles Member States experiences in dealing with this threat in a document published on its website; and (iii) that the Security Council specify in any future resolution on the matter that "related material of all types" includes civilian and improvised explosives. The Committee could then develop guidance for States based on examples of the problems and solutions States had found with implementation of the arms embargo in this area.

2. Tackling Al-Qaida/Taliban training and recruitment

106. The Committee accepted the Team's earlier recommendation that "technical advice, assistance or training" should cover not only those who conduct, direct or provide technical advice, assistance or training for listed parties, but also those who receive it from them (S/2007/229, para. 18). The Team recommends that the Council make this clear in any reiteration of the arms embargo. Similarly, the

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[83] For example resolutions 232 (1966), 418 (1977), 661 (1990), 687 (1991), 713 (1991), 733 (1992), 748 (1992), 751 (1992), 788 (1992), 841 (1993), 864 (1993), 918 (1994), 985 (1995), 997 (1995), 1011 (1995), 1053 (1996), 1132 (1997), 1160 (1998), 1171 (1998), 1284 (1999), 1295 (2000), 1298 (2000), 1343 (2001), 1408 (2002), 1425 (2002), 1478 (2003), 1483 (2003), 1493 (2003), 1509 (2003), 1518 (2003), 1521 (2003), 1533 (2004), 1552 (2004), 1556 (2004), 1572 (2004), 1579 (2004), 1584 (2005), 1591 (2005), 1718 (2006) and 1737 (2006).

Council could explicitly require Member States to prevent listed individuals and entities from having access to, establishing or maintaining military or terrorist training facilities inside their borders, thereby developing the scope of the arms embargo to cover training and recruitment comprehensively.[84]

107. Training is more than the mere transfer of technical skills; an important part of any proficient military training is psychological and social indoctrination that establishes a group ethos and esprit de corps. Preparing recruits mentally to function as part of a terrorist network and, in the extreme, to carry out a suicide attack, requires strong moulding of their hearts and minds. Therefore, considering that Al-Qaida urges all its followers to participate in violent struggle against its enemies, this type of post-recruitment incitement and radicalization could be seen as part of the training process covered by the arms embargo.

108. But in the Team's view, recruitment is even more important than training as manpower is Al-Qaida and the Taliban's most important resource. The Committee should clarify the application of the arms embargo to such activities, and the Council may also wish to consider whether the application of the arms embargo to recruitment should be made more explicit in future resolutions.

3. Arms embargo and the Internet

109. A practical way for listed individuals and entities to circumvent the arms embargo is through use of the Internet. The Internet has become a potential recruitment centre providing passive radicalization, active indoctrination and theoretical terrorist instruction. Trainers are available in virtual camps to pass on their knowledge without ever needing to be in physical contact their students. The Team has provided the Committee with analysis regarding the use of the Internet by Al-Qaida and its associates and is conducting further work on the subject; in doing so, it will consider specific recommendations relevant to the implementation of the arms embargo.

110. Currently the sanctions regime does not target the command, control, communications and information capabilities of listed groups. If the Internet is used in contravention of the provisions of the arms embargo or other measures, steps should be taken to prevent this. Existing methods employed by States to do so could be usefully catalogued in the document on the Committee website that records the experiences of the Member States in implementing the sanctions. The Committee could also produce its own recommendations.

4. Arms embargo and the notification procedure

111. The Team believes that the notification procedure recommended in paragraph 11 of resolution 1735 (2006) could be used to strengthen implementation of the arms embargo if revised to advise

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[84] It should be noted that Member States already have similar obligations established by the Security Council, for example in paragraph 2 a), c) and d) of resolution 1373 (2001), and some of them also by virtue of their participation in universal legal instruments against terrorism such as the measures outlined in article 15 of the International Convention for the Suppression of Terrorist Bombings that was adopted in 1997 and has currently more than 150 State parties. For more information, see UNODC database at http://157.150.210.22/tldb/universal_instruments_NEW.html.

listed individuals and entities that their acquisition of "arms and related material of all types [….] and technical advice, assistance, or training related to military activities" was under sanction. The Team believes that by establishing a formal obligation on listed individuals to abide by the sanctions and clearly informing them of the measures in place against them, States would not only improve the preventive function of listing, but also make it easier for them to monitor compliance and address attempted violations more effectively.

D. Arms embargo and illicit arms trafficking by air

112. Resolution 1390 (2002) and relevant subsequent resolutions oblige Member States to prevent the direct or indirect supply of arms and material to those on the List including "using their flag vessels or aircraft". Accordingly, in its fifth report, the Team raised the issue of illicit arms trafficking by air and noted that the Group of Eight had called on "the competent international and the interested regional organizations to take into consideration such illicit transport […]" (S/2006/750, para. 112). The Team also noted its cooperation with ICAO and the International Air Transport Association (IATA) on this issue.

113. Paragraph 23 of resolution 1735 (2006) requested "the Secretary General to take the necessary steps to increase cooperation between the United Nations and […] ICAO, IATA, and the [World Customs Organization] WCO, in order to provide the Committee with better tools to fulfil its mandate more effectively and to give Member States better tools to implement the measures", and in paragraph (n) of annex II tasked the Team "to work with relevant international and regional organizations in order to promote awareness of, and compliance with, the measures".

114. Considering the challenges faced by individual States, it would help to engage international organizations such as ICAO and IATA, which deal both with official authorities and airline operators, and WCO, which is the only intergovernmental organization that works on the development of global customs standards. Having liaised with these organizations at a working level, the Team believes that further progress would be helped by a high-level agreement between the organizations and the Committee, similar to the arrangement made between the Secretaries General of INTERPOL and the United Nations.

E. Other tools for enforcing the arms embargo

115. INTERPOL has developed an INTERPOL Weapons electronic Tracing System (IWeTS),[85] accessible through the I-24/7 network, to give Member States the ability to trace the origins of illegal firearms seized by them. It will allow States to check seized firearms against records in participating countries, as well as against INTERPOL own criminal information database, to retrieve available information in support of their investigations.

116. The Security Council has already recommended that States implement and provide technical and financial support to the IWeTS programme as a means to prevent the illicit trade in small arms

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[85] www.interpol.int/public/weapons/default.asp.

and light weapons.[86] Since illicit arms trade also circumvent the controls established by States to prevent the supply of arms to Al-Qaida, the Taliban and their associates, IWeTS has the potential to strengthen implementation of the arms embargo, especially with regard to efforts by government officials to identify and apprehend parties involved in direct or indirect supply of arms to those on the List. It may also allow the opportunity for States to submit the names of such suppliers for inclusion on the List as a result of their association with listed individuals and groups.

117. The Team accordingly recommends that the Committee encourage Member States to participate in the IWeTS system and to provide relevant information on stolen, lost or illicit firearms through their respective national focal points.

VIII. MONITORING TEAM ACTIVITIES

A. Visits

118. The Team visited 15 Member States between November 2006 and September 2007. Five of these visits were made jointly with the Counter-Terrorism Committee Executive Directorate (CTED) and the rest were mostly to States that the Team had not previously visited. In addition, the Team made follow-up visits to Pakistan and Afghanistan.

119. The Team also accompanied the Chairman of the Committee on his trip to Ethiopia, Djibouti and Kenya in July 2007. This trip demonstrated the value of the Chairman's travel as a way to engage States at the highest political level. The trip illustrated the many difficulties that States face when implementing the measures, some of which are as fundamental as the lack of a legal basis for doing so. It also showed how differently the threat can be perceived, even by neighbours. The Chairman was able to generate renewed interest in the sanctions regime in the three States and to confirm the willingness of the Committee to help any State deal with problems of implementation.

120. The trip to Pakistan and Afghanistan in May 2007 once again demonstrated the many challenges that confront the authorities in the Al-Qaida/Taliban heartland and allowed the Team to review how the sanctions regime was helping to address them. Both Governments are essential partners for the Committee in its effort to make the regime more effective and more focused against the threat, and they offered many useful suggestions as well as giving the Team detailed information on recent developments. The Team values this continuing engagement and regards the assessment of these two States as critical to its own evaluation of the progress being made by the sanctions regime.

121. In other visits, the Team found some confusion over the differing roles of the Counter-Terrorism Committee and the 1267 Committee, which it believes remains an issue that the two Committees may wish to address. Another common problem is the effective distribution of the List, especially to border points. States also stressed the importance of observing human rights while

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[86] See Report of the Secretary-General on Small Arms, recommendation 2, S/2003/1217 (2003), paras. 5-7; and Statement by the President of the Security Council, 31 October 2002, S/PRST/2002/30 (2002).

fighting terrorism and the need for international cooperation, especially in sharing information of operational value.

B. Talks and meetings

122. The Team also participated in many national, sub-regional, regional and international conferences and meetings, allowing it to explain the work of the Committee and the objectives of the sanctions regime, as well as discuss issues of common concern. Among the meetings it attended were two conferences which led to a specific request to the UNODC[87] to organize reporting workshops for States from Africa and the Caribbean/Latin America that owe reports to one or more of the three Security Council Committees which deal with counter-terrorism.[88] This request supports the common approach adopted by the three Committees, which aims to collect information while adding as little as possible to the burden on Member States.

123. The Team also participated in meetings organized by the Organization for Security and Co-operation in Europe (OSCE), and the Council of Europe Committee of Legal Advisers on Public International Law (CAHDI), where it received information from participating states related to the implementation of the sanctions and other international counter-terrorist activity, as well as about legal challenges that they face in relation to the sanctions regime.

C. Regional meetings for intelligence and security services

124. In accordance with its mandate as outlined in annex II of Security Council resolution 1735 (2006),[89] the Team continued to organize meetings of senior security and intelligence officials to discuss the evolution of the threat from Al-Qaida and the role of the sanctions regime. It held its fifth meeting for the heads and deputy heads of intelligence and security services from Algeria, Egypt, Jordan, Libya, Morocco, Pakistan, Saudi Arabia and Yemen in February 2007.[90] The dominant view in the meeting was that the threat from Al-Qaida-related terrorism had increased, despite all the efforts made since 2001. Al-Qaida had regrouped and regained strength, particularly through regional networks. Participants expressed their growing concern at the use of the Internet and other modern telecommunication technologies by Al-Qaida and related groups.

125. Delegates were pleased to note that resolutions 1730 (2006) and 1735 (2006) had dealt in part with other concerns expressed at previous regional meetings and this encouraged them to believe that sustained interaction with the Team was a useful way to enhance international exchange and bridge the gap between "those who know but lack the means, and those who have the means but lack the knowledge." Participants summed up the main Al-Qaida-related challenges to the international community as the Message, the Men and the Money. Much emphasis was put on addressing the

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[87] Santo Domingo Declaration: A/61/933-S/2007/319; Ouagadougou Declaration: A/61/992 - S/2007/416.

[88] The 1267 Committee, the Counter-Terrorism Committee and the Security Council Committee established pursuant to resolution 1540 (2004) concerning the non-proliferation of weapons of mass destruction.

[89] See resolution 1735 (2006), annex II, para. 1: "To consult with Member States' intelligence and security services, including through regional fora, in order to facilitate the sharing of information and to strengthen enforcement of the measures".

[90] Jordan and Libya were invited but were unable to participate.

conditions conducive to the spread of terrorism, in particular the non-resolution of regional conflicts which had a high political, emotional and symbolic impact on public opinion and young people in particular, spreading a sense of injustice, helplessness, oppression and humiliation. Participants also emphasized the importance of continued improvement of listing and de-listing procedures, and expressed their commitment to improve the Consolidated List. The group expects to meet again in early 2008, possibly with a slightly expanded membership.

126. In February 2007 the Team convened its first regional meeting for senior counter-terrorist officials from five States in South East Asia: Indonesia, Malaysia, the Philippines, Singapore and Thailand, at the United Nations Centre in Bangkok. The delegations comprised representatives from a variety of agencies, suggesting that responsibility for dealing with counter-terrorism in most States in the region is not centralized. However coordination within the delegations was both impressive and mature and all speakers displayed considerable experience and knowledge of the subject.

127. All delegations agreed that the main threat in the region comes from Jemaah Islamiyah (QE.J.92.02.), the Abu Sayyaf Group (QE.A.1.01.) and a newer arrival, the Rajah Solaiman Movement (non-listed), which works in close accord with the Abu Sayyaf Group*. Despite its weakened organizational structure, Al-Qaida was seen as a thriving global movement and a source of inspiration for would-be terrorists in the region.

128. Delegations found the Consolidated List useful and regarded it as an important part of national and international action to combat Al-Qaida and its associates. However, they criticized the lack of identifiers and raised many issues about listing and de-listing procedures, such as the importance of consulting a State of nationality or residence before listing, and the importance of having clear rules for de-listing people whose State of nationality or residence believed their names should be removed.

129. Beyond the immediate scope of the sanctions measures, delegations were particularly interested in sharing their experience of bringing terrorists back into society. There was a detailed discussion of national rehabilitation programmes and individual initiatives, with all delegations making an extensive contribution. This is clearly an area of success in the region and delegations expressed their willingness to help the Team find ways to spread some of their ideas to other States and to give a broader platform to ex-terrorists who were prepared to talk about their experiences and their regrets. Following this exchange, the Team has discussed the issue with the Committee and has approached other States with similar programmes to broaden its research.

130. All delegations recognized that terrorist use of the Internet had led to an increase in the threat, and most of the States represented were doing what they could within their own jurisdictions, including by introducing new laws, to combat the use of the Internet for terrorist purposes. All delegations agreed that they could not take effective action on their own, or even on a regional basis. Terrorist use of the Internet could only be dealt with by the international community as a whole.

D. Bankers group

131. Security Council resolution 1735 (2006), inter alia, requested the Team to consult relevant representatives of the private sector, including financial institutions, to learn about the practical

implementation of the assets freeze and to develop recommendations for the strengthening of that measure. Accordingly, in February 2007, with the help of the Watson Institute for International Studies at Brown University, the Team convened a meeting with representatives from a number of financial institutions with worldwide representation to discuss the implementation of the assets freeze.

132. The meeting was attended by 30 representatives from the financial sector, in addition to representatives from the academic world, the International Monetary Fund (IMF), the World Bank and CTED. The objectives of the meeting were to initiate a dialogue with the private sector; to gain a better understanding of the challenges faced by the financial community in implementing the sanctions regime; to identify ways to make compliance more straightforward, cost effective and efficient, and to generate ideas for improvement. The conclusions were welcomed by the Committee which encouraged the consultative process to continue.

133. To complement this group, the Team is organizing a second meeting, this time to include Islamic banks, smaller banks and practitioners from the informal banking sector.

E. International and regional organizations

134. Together with CTED and other relevant United Nations bodies, the Team has identified various areas of activity in which the Committee could usefully work with international and regional organizations. The Team has discussed joint initiatives with OSCE, in particular the Action against Terrorism Unit, WCO, ICAO and the IATA. As one immediate result, these organizations will ensure regular dissemination of the Consolidated List through their internal networks. OSCE and WCO have also agreed to engage the Team in their assistance and capacity-building programmes, insofar as they relate to implementation of the sanctions measures. ICAO and IATA have agreed to highlight the work of the 1267 Committee and to raise awareness of the Consolidated List among their members.

F. INTERPOL

135. In resolution 1735 (2006), the Security Council welcomed its expanded cooperation with INTERPOL and encouraged Member States to work through the framework of INTERPOL to improve implementation of the sanctions measures.[91] By the end of September 2007, the number of INTERPOL-United Nations Security Council Special Notices for listed individuals stood at 290. By that date, INTERPOL members in 112 countries had consulted all 290 Special Notices through the I-24/7 communications system on a total of over 9,400 occasions.[92]

136. As a next step, and at the request of the Committee, the Team and INTERPOL are discussing Special Notices for listed entities. It is hoped that these Special Notices will help obtain additional information on listed entities, which might contribute to identifying additional assets, and also those entities that continue to operate under a different name or have taken other steps to conceal their activities.

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[91] See resolution 1735 (2006), preambular para. 8.

[92] Source: INTERPOL.

137. Although Special Notices have attracted increasing attention and support from Member State law enforcement agencies, the Team recommends that the Security Council and the Committee encourage Member States to ensure broader diffusion of the Notices within the national law enforcement community, particularly to frontline officers, and also to distribute the publicly available versions of the notices more widely to other relevant agencies, non-governmental entities and the private sector. The Team also recommends that the Committee formally request Member States to provide INTERPOL with any additional law enforcement and identifying information that would significantly improve the quality of the notices on a continuing basis so as to keep them as up to date as possible.

138. While the Special Notices have had an undoubted and positive effect on the implementation of the measures, INTERPOL has commented that national law enforcement authorities do not always know who to turn to on issues relating to the sanctions regime. With this in mind, the Team repeats its earlier recommendation that the Committee encourage States to identify a national focal point for coordination and explanation of the Al-Qaida/Taliban sanctions regime within their countries and to ensure that their national law enforcement authorities, including INTERPOL National Central Bureaux (NCBs), are aware of these arrangements (S/2007/132, paras. 61-64).

G. Cooperation with the Counter-Terrorism Committee and the Committee established pursuant to resolution 1540 (2004)

139. As stated in the Team's sixth report, the three expert groups that support the 1267 Committee, the CTC and the 1540 Committee have developed a common strategy to address the problems faced by States that are yet to submit reports required by their respective Committees (S/2007/132, para. 113). In February 2007, the three Committees endorsed a 'modalities paper' submitted by the expert groups which sought to put the common strategy into action, starting with the African region.

140. Working with the Terrorism Prevention Branch (TPB) of UNODC as facilitator, the expert groups have planned a number of sub-regional workshops for national officials who are involved in the implementation of the relevant Security Council resolutions or are responsible for writing reports to the three Committees. The first workshop was for 23 West and Central African States; the second is for Southern African States, and the third will be for Northern and Eastern African States. The common strategy also includes proposals for States that need assistance with their reporting obligations in the Asia-Pacific group and in the Caribbean and Latin America group. The common strategy is not intended to detract from the current or planned work programmes of the Committees, or of their expert groups, which will continue to deal with States individually.

141. As the Team has no mandate to deal with the provision of technical assistance, it has forwarded whatever information it has collected from States on their assistance needs, or on their offers of assistance, to CTED for action. The Team also continues to coordinate its travel plans with CTED, and to exchange information both before and after trips.

IX. MEMBER STATE REPORTING

A. Resolution 1455 reports

142. The Team noted in its fifth report that 147 Member States had submitted a resolution 1455 (2003) report to the Committee as at 31 July 2006 (S/2006/750, para. 120). Since then, only four more States have done so: Georgia, Tuvalu, Uruguay and Vanuatu. The submission of these reports has in large part resulted from cooperation with, variously, OSCE, UNODC and New Zealand.

B. Checklist

143. In its sixth report, the Team assessed that the value of the checklist requested under resolution 1617 (2005) had been less than hoped for (S/2007/132, para. 25). At that time 55 Member States had submitted a checklist, and since then only two more have done so: India and Turkmenistan, both following a Team visit. There are therefore 135 States which had not submitted a checklist 19 months after the reporting date (1 March 2006). In sum, the checklists have only provided limited information from 57 States on the 24 names added to the List between 29 July 2005 and 31 January 2006, and nothing concerning the 443 names that were already there, or on the 23 names added since February 2006.

144. But some mechanism is still required to enable the Committee to obtain updated information on listed individuals and entities without imposing another reporting round on States. The Team suggested in its sixth report that a voluntary, informal mechanism be found for States to provide updated information to the Committee, and it continues to support this recommendation (S/2007/132, para. 28). It plans to submit to the Committee a list of questions for a voluntary survey on implementation to be posted on the Committee website to guide States on the type of additional information that the Committee would like them to report as it becomes available.

X. OTHER ISSUES

A. Enhanced Committee website

145. The Committee website now contains several new sections including a "latest news section" and documents such as: fact sheets on: (i) listing; (ii) de-listing; (iii) exemptions to the travel ban; (iv) exemptions to the assets freeze and (v) updating the Consolidated List. In addition, the list of "useful papers" now includes an Explanation of Terms paper on the Arms Embargo, Guidance to making more effective searches on the Consolidated List, a Press Release on the distinction between the 1267 Committee and the CTC, and a paper on Experiences of Member States in implementing the sanctions.[93]

146. The last of these is a collation of information received by the Team from more than 70 States. The 49 examples given are intended to provide an illustrative guide to how some Member States have

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[93] See www.un.org/sc/committees/1267/index.shtml.

gone about implementing the sanctions measures. Other States may (or may not) find some of these practices helpful or appropriate to their own national circumstances, resources and needs when implementing the 1267 regime. The paper does not duplicate the list of "international best practices" on the CTC website, which summarizes industry standards and codes according to the CTC mandate in resolution 1373 (2001).

ANNEX I - Litigation by or relating to individuals on the Consolidated List

1. There have been decisions over the past several months in two long-running suits brought by listed persons: an additional ruling against the Global Relief Foundation's (QE.G.91.02) challenge to the United States implementation of sanctions against it, and a ruling against Yasin Abdullah Ezzedine Qadi's (QI.Q.22.01) challenge to unfreeze his assets in Turkey. A decision is expected from the European Court of Justice within the next few months in another Qadi* case (and a companion action), which will have far-reaching implications for implementation of the sanctions there. Finally, the Al-Haramain Foundation (QE.A.117.04) has filed a new action in the United States, bringing the total number of challenges to the sanctions known to the Team to 26.

European Union[1]

2. Appeals brought by Ali Ahmed Yusaf (QI.Y.47.01)[2] and Barakaat International Foundation (QE.B.39.01) and Qadi* from judgements upholding application of the sanctions[3] are scheduled for oral argument before the European Court of Justice in Luxembourg soon; a final decision in these cases is anticipated before the end of the year. Two similar appeals brought by Shafiq ben Mohamed ben Mohamed Al-Ayadi (QI.A.25.01) and Faraj Faraj Hussein Al-Sa'idi (QI.A.137.03) remain stayed pending a ruling on the earlier appeals.[4] A fifth case brought by Uthman Omar Mahmoud (QI.M.31.01) in 2001 remains pending before the Court of First Instance,[5] as do four new cases brought last year by Abd Al-Rahman Al-Faqih (QI.A.212.06),[6] Sanabel Relief Agency Limited (QE.S.124.06),[7] Ghuma Abd'Rabbah (QI.A.211.06),[8] and Tahir Nasuf (QI.N.215.06).[9]

3. Also notable are a recent series of decisions by the European Court of First instance invalidating, on due process grounds, individual applications of European sanctions intended to implement resolution 1373 (2001) (requiring sanctions against those who commit or facilitate acts of terrorism).[10] The Court of First Instance distinguished earlier decisions upholding resolution 1267 sanctions[11] by noting that resolution 1373 (2001) does not identify specific persons whose assets must be frozen, making the decision to impose sanctions on particular targets, and the process used to reach that decision, a matter of Member State discretion and therefore subject to more searching review.

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[1] Cases and judgements are available at curia.europa.eu/en/content/juris/index.htm.

[2] De-listed on 24 August 2006, see press release SC/8815.

[3] Case T-306/01, Yusuf and Al Barakaat International Foundation v. Council and Commission; case T-315/01, Kadi v. Council and Commission. For more detail on the rulings in these cases, see the Team's fifth report (S/2006/750, annex III, para. 4) and fourth report (S/2006/154, annex paras. 4-7).

[4] Case T-253/02, Ayadi v. Council; Case T-49/04, Hassan v. Council and Commission.

[5] Case T-318/01, Othman v. Council and Commission.

[6] Case T-135/06, Al-Faqih v. Council.

[7] Case T-136/06, Sanabel Relief Agency Ltd v. Council.

[8] Case T-137/06, Abdrabbah v. Council.

[9] Case T-138/06, Nasuf v. Council.

[10] Paragraph 1(c) of resolution 1373 (2001) requires States to: "[f]reeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts" and "of entities owned or controlled directly or indirectly by such persons [...] and [...] persons and entities acting on behalf of, or at the direction of such persons and entities". Resolution 1373 (2001) does not identify a Consolidated List of specific persons whose assets must be frozen pursuant to these measures.

[11] See Case T-306/01, Yusuf and Al Barakaat International Foundation v. Council and Commission; case T-315/01, Kadi v. Council and Commission, referenced above.

These decisions highlight both the power of sanctions under the resolution 1267 (1999) regime and the continuing human rights concerns that attach to them.

Pakistan

4. The two cases brought by listed entities described in the Team's fifth report (S/2006/750, annex III, paras. 6-7) and sixth report (S/2007/132, annex I, para. 5) continue. The Al Rashid Trust's (QE.A.5.01) challenge to the freezing of its assets continues in the Supreme Court of Pakistan on the Government's appeal from a 2003 adverse decision. In the meantime, the lower court in that case on 26 April 2007 issued an order allowing the Trust to donate perishable food and medicine from its offices to recipients determined by the Government.[12] The challenge brought by the Al-Akhtar Trust International (QE.A.121.05) continues before the same lower court.[13]

Switzerland

5. As the Team has reported previously, listed individual Youssef Nada Ebada (QI.E.53.01) filed a complaint in June 2006 against the Office of the Attorney General of Switzerland, seeking compensation for financial losses resulting from a now-closed investigation by the federal prosecutor involving him and his company, Nada Management Organization SA (QE.N.58.01). On 31 May 2007, the Federal Criminal Tribunal in Bellinzona awarded Mr. Nada* 5,951 Swiss francs, far less than the 27 million he sought. The award was applied against 19,049 francs owed by Nada* as a result of the court proceedings. Ali Ghaleb Himmat (QI.H.43.01) also was awarded a judgement for a similar complaint on 19 June 2007. The separate actions by Nada* and Himmat* challenging sanctions against them remain pending before the Federal Tribunal in Lausanne.

Turkey

6. In the challenge brought by Yasin Abdullah Ezzedine Qadi*, the Administrative Cases Bureau of the Council of State of Turkey on 22 February 2007 overturned a decision by the 10th Division of the Council of State that would have unfrozen his assets.[14] The 10th Division's ruling annulled part of a 22 December 2001 Cabinet Decision that initiated the freeze. Qadi's assets have remained frozen throughout the appellate process.[15] The Administrative Cases Bureau is the highest reviewing body for challenges to Cabinet decisions, and its ruling appears to end Qadi's suit. The action by Nasco Nasreddin Holding A.S. (QE.N.81.02) remains pending.

United Kingdom

7. The appeals in the three cases brought by spouses of listed individuals discussed in the Team's sixth report (S/2007/132, annex I, para. 9) have been denied.[16]

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[12] Information provided by authorities in Pakistan.

[13] Ibid.

[14] Information provided by Turkish authorities, August 2007.

[15] Ibid.

[16] Information provided by authorities of the United Kingdom.

United States of America

8. On 31 May 2007, a federal district court dismissed or granted summary judgement on the remaining claims of the Global Relief Foundation (QE.G.91.02) (GRF). The court previously had dismissed the great majority of the plaintiff's claims challenging fundamental constitutional rights, which was affirmed on appeal. On the remaining claims, the court concluded in particular that the Government had an adequate factual basis to support its decision to impose sanctions on the organization. GRF announced in July 2007 that it would appeal the ruling but later dropped the appeal.

9. Listed entity Al-Haramain Foundation (United States of America) (QE.A.117.04) has initiated a new action against the Government in federal district court in Oregon, in addition to a previous action still pending in the United States. Al-Haramain argues that the United States decision to impose sanctions against it was arbitrary and unsupported by substantial evidence, and also violated its rights to due process (by failing to explain the factual basis for the Government's action and relying on classified evidence not provided to the organization), its right against unreasonable search and seizure (based on the freezing of its assets), and its rights to free speech, association, and free exercise of religion. Al-Haramain also argues that the Government's refusal to allow it to use blocked assets to pay its attorneys violated its due process rights. The Government's response to Al-Haramain's complaint is due 9 October 2007.

10. In Al-Haramain's ongoing challenge to alleged unlawful government surveillance, the Ninth Circuit Court of Appeals has allowed the Government an immediate appeal from a federal district court ruling which denied the Government's motion to dismiss the case at the outset due to the risk that litigation would result in disclosure of state secrets. The Ninth Circuit heard argument on the appeal on 15 August 2007 but has not yet ruled on it. Finally, the case brought by former Al-Haramain chairman Aqeel Abdul Aziz Al-Aqeel (QI.A.171.04) remains pending in federal district court, awaiting the court's decision on the Government's motion to dismiss.

ANNEX II - Non-listed groups associated with Al-Qaida and other listed bodies

1. As of 30 September 2007, the Consolidated List contained the names of 124 groups and entities, all in the Al-Qaida section of the List, of which approximately 30 could be described as involved in violence.

2. Most of these groups were listed in 2001, 2002 or 2003. Jama'at al-Tawhid wa al-Jihad a.k.a. al-Zarqawi network (QE.J.115.04), Lashkar-e-Tayyiba (QE.L.118.05) and the Islamic Jihad Group (QE.119.05) are the only ones to have been listed in 2004 and 2005 respectively. The organization of Al-Qaida in the Islamic Maghreb (QE.T.14.01) is the only "regional" branch of Al-Qaida to appear as such on the List. It was formerly known as the Salafist Group for Call and Combat (GSPC according to its acronym in French) and this is among the very few entries on the entities section of the List that has been updated (on 26 April 2007).[1]

3. Entries for the Abu Sayyaf Group (QE.A.1.01), Al-Itihaad Al-Islamiya, (QE.A.2.01), Al-Jihad/Egyptian Islamic Movement (QE.A.3.01), the Armed Islamic Group a.k.a. GIA (QE.A.6.01), Asbat Al-Ansar (QE.A.7.01), Eastern Turkistan Islamic Movement (QE.E.88.02), Harakat Ul-Mujahidin (QE.H.08.01), the Islamic Army of Aden (QE.I.9.01), Islamic International Brigade (IIB) (QE.I.99.03), the Islamic Movement of Uzbekistan (IMU) (QE.I.10.01), Jaish-I-Mohammed (QE.J.19.01), Jemaah Islamiyah (QE.J.92.02), Lashkar I Jhangvi (QE.L.96.03), the Libyan Islamic Fighting Group (QE.L.11.01), and the Moroccan Islamic Combatant Group (GICM) (QE.M.89.02) have not been updated for more than four years. They do not contain much information, in particular about their location(s) or zone(s) of operation, nor is there any mention of their leaders.

4. The entry for Al Qa'ida (QE.A.4.01) itself has not been updated since its listing on 6 October 2001. As a result, the current version of the List does not record the transformation of Al-Qaida's structure over the past years or the extent of its regional networks. Nor does the List reflect Al-Qaida's links with armed groups operating in zones of conflict, such as in Afghanistan, Iraq and Somalia, which are central to its strategy of expansion.

5. Many groups claim a connection with Al-Qaida, sometimes by adopting a related name or by publicly pledging allegiance to Usama bin Laden; and even if the connection is more apparent than real, one may conclude that the groups support Al-Qaida's aims and goals.[2] Few of these groups are listed. Groups calling themselves Al-Qaida in the Arabian Peninsula, Al-Qaida in Afghanistan, Al-Qaida in the land of Kinana (Egypt), Al-Qaida in Iraq[3] do not appear on the List.

6. Other groups have evolved. Ansar Al-Islam (QE.A.98.03) is now using Ansar Al-Sunna (listed as one of its a.k.a.s) as its main name and this should perhaps be reflected on the List. The Islamic Jihad Group* refers to itself also as Islamic Jihad Union, a name that should probably be listed as an alias. Similarly, the Team has been told that the Islamic Party of Turkestan, also known as the Islamic

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[1] SC/9005 of 26 April 2007, at www.un.org/News/Press/docs//2007/sc9005.doc.htm.

[2] For example, Michael Scheuer identified well over 20 in an article in Jamestown 'Terrorism Focus' Vol.4 Issue 8, 3 April 2007.

[3] The principal leader of umbrella groups such as the Mujahideen Shura Council (established in 2006) and the Islamic State of Iraq (announced by a communiqué on 15 October 2006).

Movement of Turkestan, is the same as the IMU*.[4] Other groups have emerged as possible spin-offs of larger groups. As Al Qaida in the Islamic Maghreb* has intensified its activities, cells which might be connected to it, or to GICM*, have emerged in several North African countries, with possible associates in Western European countries.

7. In South East Asia, the Rajah Solaiman Movement (or Rajah Solaiman Group) has been described to the Team as a group that works in close accord with the Abu Sayyaf Group* (see reference in main document). The issue of its listing was discussed in the first South East Asia regional meeting for intelligence and security services held by the Team in Bangkok in February 2007 – and Australia called for it during public briefing of the Security Council by the Chairmen of the 1267 Committee, the Counter-Terrorism Committee and the 1540 Committee on 22 May 2007, but no submission for listing has been made to date.

8. In Somalia, since the beginning of 2007, many of the bombings and suicide attacks that follow the practices of Al-Qaida associated groups in Iraq or Afghanistan have been claimed by Al-Shabaab movement, which is not listed.[5] The Team has been told that it has close links to Al-Itihaad Al-Islamiya* leaders, and may also have links to Al-Qaida. Certainly Aiman Al-Zawahiri* and Abu Yahya Al-Libi have been encouraging fighting in Somalia in their propaganda messages and are clearly trying to establish themselves as sources of political guidance over fighters there who might identify with their extremist and violent ideologies.

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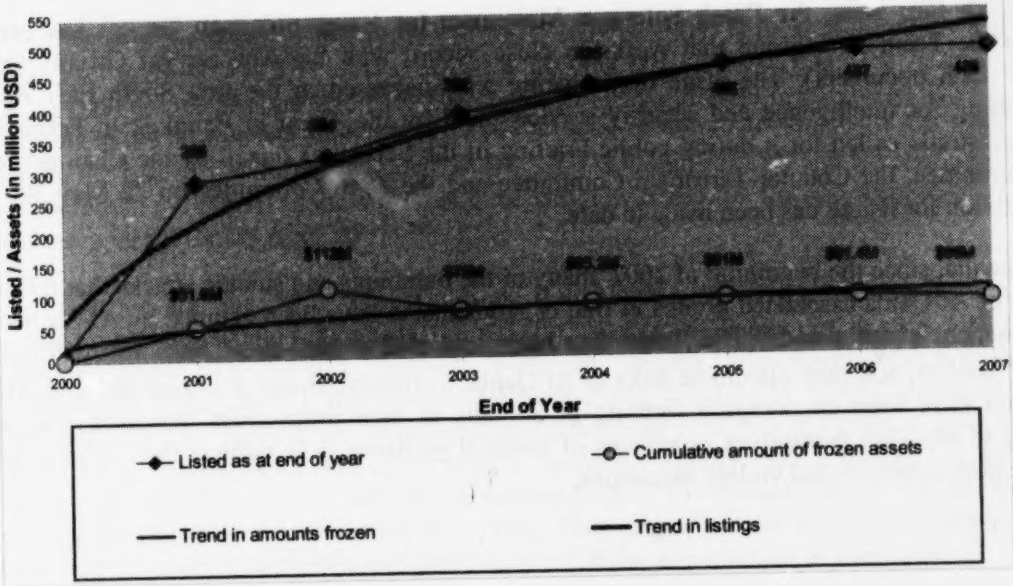
[4] Information provided during the Monitoring Team's trip to Uzbekistan, November 2005.

[5] Information provided to the Chairman of the Committee on his trip to Ethiopia, Djibouti and Kenya in July 2007.

ANNEX III - Impact of listings on the value of frozen assets



United Nations S/2007/677*

Security Council

Distr.: General
29 November 2007

Original: English

Letter dated 15 November 2007 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities addressed to the President of the Security Council

I have the honour to transmit herewith the seventh report of the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004) and extended by resolutions 1617 (2005) and 1735 (2006).

The report was submitted to the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities on 30 September 2007, in accordance with Security Council resolution 1735 (2006), and is currently being considered by the Committee.

I should be grateful if the attached report could be brought to the attention of the Council members and issued as a document of the Security Council.

(*Signed*) Johan **Verbeke**
Chairman
Security Council Committee established pursuant
to resolution 1267 (1999) concerning Al-Qaida and
the Taliban and associated individuals and entities

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* Reissued for technical reasons.

Enclosure

Letter dated 30 September 2007 from the Coordinator of the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004) addressed to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

The Analytical Support and Sanctions Monitoring Team established pursuant to Security Council resolution 1526 (2004) and extended by Security Council resolutions 1617 (2005) and 1735 (2006) concerning Al-Qaida and the Taliban and associated individuals and entities, has the honour to transmit to you its seventh report, in accordance with resolution 1735 (2006).

The Monitoring Team notes that the document of reference is the English original.

(*Signed*) Richard **Barrett**
Coordinator

Report of the Analytical Support and Sanctions Monitoring Team appointed pursuant to Security Council resolutions 1617 (2005) and 1735 (2006) concerning Al-Qaida and the Taliban and associated individuals and entities*

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I. SUMMARY

1. The threats from Al-Qaida and the Taliban remain persistent and real. Al-Qaida has continued to show its determination to mount major attacks; it has extended its base of support; its leaders have consolidated their ability to communicate their message and their operational plans, and the Taliban have increased their influence not just in Afghanistan, but in North-Western Pakistan as well. Meanwhile, security forces have prevented attacks and killed or captured significant leaders. But the sanctions regime has contributed less than it might.

2. This is the seventh report by the Analytical Support and Sanctions Monitoring Team since it was established in March 2004; some of the themes are familiar and few are entirely new. The reason for this is that the Security Council sanctions regime, which remains the sole vehicle for truly global action against the twin threats of Al-Qaida and the Taliban, continues to suffer from two main weaknesses: the limitations of the Consolidated List and a lack of involvement by Member States. The Team has addressed both these issues before, but makes no apology for raising them again.

3. The Consolidated List should be a clear expression of the threat as seen by the many States that confront it. If States do not recognize the List as accurate and relevant, their implementation of the measures will be half-hearted and will not bring about the intended results. Helped by the Team, the Al-Qaida and Taliban Sanctions Committee has made many improvements to the List, as well as to the procedures for listing and de-listing; but there is more to do.

4. However, the responsibility for further action also rests with Member States, by putting forward names, pointing out problems, or discussing further improvements to procedures. States will always regard their national security as their first priority, but unless all States work together to plan longer-term action against Al-Qaida/Taliban-related terrorism, it is unlikely that any State will ever be truly safe. The sanctions regime, especially if adapted and improved, provides a basis for such joint action.

5. The Team's report examines why many States still do not recognize the full potential of the sanctions regime. It takes stock of progress and looks at the fate of existing initiatives, even while proposing new ones. As well as looking at the List, the Team examines implementation of the three sanctions measures: the assets freeze, the travel ban and the arms embargo. It reports some progress but many remaining challenges. The report also looks at the legal challenges to the regime, which are likely to increase unless listing and de-listing procedures improve.

6. The Team reports on its engagement with the private sector, and its expanded engagement with security and intelligence services. Both have proved of great benefit to the Committee by informing it directly of everyday problems of implementation. The Team has also increased the scope of its joint activity with regional and international bodies as a way to spread awareness of the sanctions regime and encourage a broader and more effective engagement by States; it reports on this as well.

II. OVERVIEW OF THE SANCTIONS REGIME

A. The regime carries on, but with mixed support

7. A United Nations Security Council sanctions regime is inevitably a fairly blunt instrument, and the Al-Qaida/Taliban regime is aimed at a particularly complex and elusive target. Measures of its success are hard to identify, and the apparent resilience of its target groups raises questions as to its impact and brings focus on its deficiencies. But the sanctions regime has achieved much and has further potential to counter the influence of Al-Qaida and the Taliban. It is also a clear, international condemnation of their acts and objectives.

8. The Monitoring Team aims to do more than just help the Al-Qaida and Taliban sanctions Committee established pursuant to Security Council resolution 1267 (1999)[1] to maintain a basic level of support.[2] It continues to promote the sanctions regime with a wide range of States and to work with them to make it more effective. However, despite improvements,[3] senior counter-terrorist officials in contact with the Team seem less enthusiastic about the sanctions regime than they were. Their underlying support remains, but their hopes that the measures might do more to address national and regional problems, and promote a qualitative increase in international cooperation, have been largely disappointed. They are especially disappointed with progress in areas where cooperation across borders is essential, such as the response to terrorist use of the Internet. There is also a persistent call for further improvements to the quality of the Consolidated List of individuals and entities subject to the sanctions,[4] and to the processes that lie behind the addition and removal of names.

9. Aspects of the regime have begun to look outdated and less well-designed than they were. If it is to continue to have an effect, the regime needs a flexibility and adaptability that more closely mirrors the threat it sets out to address. The procedures and processes behind the regime are slow to change and the Committee and the Team need to find ways to manage the expectations of States while at the same time doing what they can to respond to their concerns. The Committee has always welcomed feedback from States, but it must seek better ways to show that it is examining their comments and suggestions in depth, and with a will to make changes as a result. Effective dialogue between the Committee and States is the best way to promote the sense of engagement and joint ownership on which willing cooperation relies.

10. In dealing with States, the Team has often found it easy to generate interest in the sanctions regime, but hard to sustain it. In some cases this is because States do not see counter-terrorism as a national priority; in others because they regard implementation of the sanctions regime as less important than other counter-terrorism work, or it can be because they question the fairness of its application. Nonetheless, even in States that pay too little attention to the sanctions regime, the Team

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[1] The Committee has an official website at www.un.org/sc/committees/1267/index.shtml.

[2] Annex II of resolution 1735 (2006) details the mandate of the Team.

[3] For example, a review mechanism was introduced in November 2006 and resolution 1730 (2006) established a focal point for de-listing submissions.

[4] The Consolidated List established and maintained by the 1267 Committee with respect to Al-Qaida, Usama bin Laden, and the Taliban and other individuals, groups, undertakings and entities associated with them.

has not found a lack of commitment to act against Al-Qaida and the Taliban, or to cooperate internationally to do so.

B. The threat from Al-Qaida and the Taliban

1. Al-Qaida

11. Much is written about the organizational disposition and strength of Al-Qaida, but analysts agree that its influence has not declined over the last year, nor has its intention or ability to attack.[5] There may have been fewer major operations than Al-Qaida leaders would have liked, but the arrest or death of suspected Al-Qaida-related terrorists in more than 40 countries around the world since the Team last reported in November 2006 (S/2007/132) suggests a high volume of terrorist planning.[6] The frequent and widespread warnings by world leaders and counter-terrorist professionals that more attacks could occur at any time,[7] acknowledge Al-Qaida's spread, its patience and its determination. In any case, Al-Qaida hardly needs the publicity of new attacks to promote its message; it reaches a global audience whether they occur or not.

12. There has been a further increase in Al-Qaida propaganda delivered through the Internet. On 7 September 2007 Usama bin Laden[8] issued his first video broadcast since October 2004.[9] He addressed the American people directly, assuming a high level of discontent with the policies and actions of their leaders. He criticized capitalism, democracy and global trade as the causes of problems of personal debt and political exclusion. He pointed out the similarities between Christian and Muslim beliefs, as well as Islam's historic tolerance of other faiths. He called for a mass conversion to Islam. He presented himself as above the operational fray; a noble leader whose sole desire was to help the poor and oppressed against the tyrants who rule over them. His speech was a good example of the hubris of Al-Qaida's leaders and their self-perception as defenders of values such as freedom, equality, humanity and justice; nonetheless, it will have impressed Bin Laden's supporters as a sincere, reasonable and well-based argument for action.

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[5] Information provided by Member States.

[6] Since 7 November 2006, the Team has recorded news reports of the arrest or death of suspected terrorists with links to Al-Qaida or other related listed groups in Afghanistan, Algeria, Austria, Australia, Bahrain, Belgium, Canada, China, Denmark, Egypt, France, Ethiopia, Germany, India, Indonesia, Iran, Iraq, Italy, Jordan, Kenya, Kyrgyzstan, Lebanon, Libya, Madagascar, Mauritania, Morocco, Nigeria, Pakistan, the Philippines, the Russian Federation, Saudi Arabia, Singapore, Somalia, Spain, Sweden, Switzerland, Syria, Tajikistan, Trinidad and Tobago, Tunisia, Turkey, the United Kingdom, the United States, and Yemen.

[7] See www.mi5.gov.uk/output/Page374.html, www.dhs.gov/xnews/speeches/sp_1180627041914.shtm, www.bmi.bund.de/cln_028/nn_122730/sid_1D9D705C13171C0AFFFC7430A07020C7/Internet/Content/Nachrichten/Medienspiegel/2007/09/BM__ARD__en.html as well as https://pastel.diplomatie.gouv.fr/editorial/actual/aei2/bulletin.asp?liste=20070920.html&submit.x=10&submit.y=16#Chapitre1.

[8] For editorial clarity, listed individuals or entities will be mentioned with their permanent reference number the first time they appear in the text of this study and will be signalled by an "*" when mentioned again. Al-Qaida, Usama bin Laden and the Taliban are named in the Security Council resolutions themselves and will just be referred to by their names. All other names appearing without a permanent reference number or an "*" are assumed not to be listed.

[9] "Message to the American people", full transcript posted on forums on the Internet. The most recent speeches by Usama bin Laden were audio messages released on 29 June and 1 July 2006.

13. Following this video, Bin Laden made two other appearances in September; one reminding Al-Qaida supporters of the 9/11 hijackers and urging them to follow their example,[10] the other appealing to the people of Pakistan to overthrow President Musharraf.[11] All three broadcasts sought to justify Al-Qaida's basic premise that the use of violence in support of its cause is not only legitimate but obligatory and to present Bin Laden as a man of authority and power. These messages, and the ambition they show, reflect the strength Al-Qaida draws from activists in disjointed cells who desire to be part of something bigger.

14. While Usama bin Laden has promoted his distorted interpretation of Islam and his view that the struggle against Western influences will succeed even if it lasts through generations, Aiman Al-Zawahiri (QI.A.6.01), in numerous videos and broadcasts over the last year, continues to try to capitalize more immediately and more operationally on the tens of thousands of people around the world who sign up to password-protected websites and chat rooms.[12]

15. His video released on 19 September 2007[13] demonstrates the increasing level of professionalism achieved by Al-Sahab, the main Al-Qaida media production unit. It interlaces a new message with footage showing Mustafa Abu Al Yazeed, a.k.a. Sheikh Saeed, the head of Al-Qaida in Afghanistan, together with Taliban leaders; excerpts from Bin Laden's messages; television news stories; clips of prominent Heads of State and Government, including many from Arab countries; officials from the Central Intelligence Agency (CIA); officials from the North Atlantic Treaty Organization (NATO); counter-terrorism experts; Muslim clerics; scholars; journalists; lawyers, and Western supporters of Al-Qaida. It is expertly produced and, like previous videos, was subtitled in English and uploaded almost simultaneously onto hundreds of servers by what must be a large group of volunteers.[14]

16. Through these videos, Al-Zawahiri* hopes to inspire attacks and to bring as much operational activity as possible under central direction. Al-Qaida has established training centres in Pakistan, and networks that channel people to them from overseas. Operating out of houses and small compounds, they may lack the facilities of the camps run by Al-Qaida in Afghanistan during the Taliban regime, but the trainees receive concentrated attention relevant to their circumstances and opportunities, and discuss attack plans.[15] The evidence from arrests of people who have received such training confirms that Al-Qaida is as determined as ever to carry out ambitious, large-scale operations wherever it may.[16] Although the world may have become numbed to some extent to the shock and horror of regular attacks, even when tens of people die, any duplication of the level of violence seen in Al-Qaida-related operations in Iraq, or the downing of aircraft, or the explosion of a 'dirty bomb' in

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[10] "The will of martyr Walid Al-Shehri", circulated through forums on the Internet.

[11] "Come to Jihad", circulated through forums on the Internet.

[12] The Ekhlaas forum, for example, has some 30,000 subscribers, according to the SITE institute. See www.msnbc.msn.com/id/20697164/site/newsweek/page/0/.

[13] "The power of truth", circulated through forums on the Internet.

[14] www.msnbc.msn.com/id/20697164/site/newsweek/page/0/.

[15] Information provided to the Team by Member States.

[16] Ibid.

an urban centre, which remains an Al-Qaida ambition,[17] will cause widespread economic, social and political disruption.

2. The Taliban

17. The Taliban are resurgent and now manage to dominate large areas of the countryside in southern Afghanistan, retreating only when confronted by superior Afghan or coalition forces. They have enough money to hire foot soldiers and to buy weapons, including the components for sophisticated improvised explosive devices, and their ability to cross the long and porous border with Pakistan is largely unconstrained.[18] The Afghan National Security Forces and United Nations Assistance Mission to Afghanistan (UNAMA) currently estimate there to be about 3,000 active and up to 7,000 occasional Taliban fighters in Afghanistan;[19] but while this is a relatively small number, they receive at least passive support from many others.

18. The Taliban have had set backs, such as the arrest by Pakistan authorities in February 2007 of Ubaidullah Akhund (TI.A.22.01), the head of the Taliban Shura Council, and the deaths of another senior member, Akhtar Usmani, in December 2006, of Mullah Dadullah, supreme Taliban commander, in May 2007, and of Jallalouddine Haqani (TI.H.40.01), a powerful tribal commander, in June 2007, as well as of a significant number of other senior and mid-level commanders over the last year.[20] But they have not stopped attacks. Taliban lines of command have always been haphazard and decentralized and owe more to personal connections than to any hierarchical organization, and they are difficult to cut completely. For now, southern and eastern Afghanistan remain locked in a bloody stalemate, with urban centres too often suffering from weak governance and increasing corruption[21] and the countryside controlled by a mix of tribal warlords, drug-traffickers and Taliban commanders. The threat to President Karzai's authority and to the stability of Afghanistan is as real as ever.

19. The relationship between Al-Qaida and the Taliban appears close. In his video message of 19 September 2007, Al-Zawahiri* once again referred to Mullah Omar (TI. O.4.01) as the supreme leader, and while the Taliban can always recruit more foot soldiers, they lack experienced commanders to replace the many that have been killed and they have looked to Al-Qaida not just for training, but also to fill the gaps. But the appointment of foreign leaders is not popular and the overall number of fighters from outside the immediate area is not large, somewhere between five and ten per cent of the total depending on the area.[22] There has also been a report of Afghans operating elsewhere in support of Al-Qaida objectives, though this may have been without Taliban knowledge or support.[23] The Taliban and Al-Qaida have a common need to establish secure bases in Afghanistan,

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[17] Ibid.

[18] Information provided to the Team by the authorities in Pakistan and Afghanistan.

[19] Figures from August 2007.

[20] A/62/345-S/2007/555. At least 80 in Helmand alone according to UNAMA.

[21] Ibid.

[22] Source: UNAMA. Languages heard in radio traffic include Arabic, Chechen, Punjabi, Turkish, Uighur, Urdu and Uzbek.

[23] The Iraqi Defence Ministry in September 2007 said that two Afghans had been stopped by the authorities in Iraq as they prepared to blow up a dam which was a known target of Al-Qaida. See http://edition.cnn.com/2007/WORLD/meast/09/26/iraq.main.ap/index.html.

especially as the authorities in Pakistan increase the pressure on the other side of the border. But while the Taliban focus is very much on Afghanistan, Al-Qaida is hoping for other gains as well, and probably both groups would prefer less inter-dependence. However, based on its discussion with Pakistan and Afghan authorities, and other experts, the Team sees no fundamental change in the long-standing relationship between the two movements.[24]

C. The Taliban and the drug trade

20. Coalition forces, United Nations agencies and the Afghan authorities all see increasing evidence of a growing relationship between the Taliban and the drug trade.[25] In its latest report, the United Nations Office on Drugs and Crime (UNODC) said that increased cultivation of opium poppies in Afghanistan had led to a 34 per cent increase in potential opium production since 2006.[26] Afghanistan now accounts for 93 per cent of world opium supply,[27] and its counter-narcotics agency estimates that about one million Afghans find extra work during the poppy harvest.[28]

21. Approximately 70 per cent of Afghan poppies are grown in five provinces along the Pakistani border, the area of Afghanistan most heavily infiltrated by the Taliban, and 53 per cent of the national crop comes from Helmand,[29] estimated by Afghan authorities to be 70 per cent under Taliban control.[30] Where they can, the Taliban tax the poppy trade, usually at ten per cent of the crop,[31] and in exchange provide security for traffickers and farmers and sometimes assist with the harvest. Taliban commanders may also act as bankers, lending money for seed. The Government eradication programme has had limited effect and appears to have driven more farmers to seek protection for their crops.[32]

22. The Taliban are also involved in refinement and post-refinement stages of the trade, and the distinction between them and purely criminal traffickers has become less clear. According to a report by the World Bank and UNODC, around 20 to 30 drug traffickers, the majority operating in southern Afghanistan, control most of the trade[33] and they could not operate without a close association with the main Taliban commanders in the region, 20 of whom are also regarded by security authorities in Afghanistan as serious traffickers.[34]

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[24] Information provided during the Team's visit to Afghanistan in May 2007.

[25] A/62/345-S/2007/555.

[26] Opium production in metric tons is likely to reach 8,200 this year, twice the level of 2005 (4,100). Production in 2000 was 3,276. United Nations Office on Drugs and Crime, Afghanistan Opium Survey 2007; www.unodc.org/pdf/research/AFG07_ExSum_web.pdf.

[27] Ibid.

[28] Information provided by the Afghan authorities during the Team's visit in May 2007.

[29] Afghanistan Opium Survey 2007, op.cit. Helmand now accounts for more opium than was produced throughout Afghanistan in 2005.

[30] Information provided during the Team's visit to Afghanistan in May 2007.

[31] Information provided during the Team's visit to Afghanistan in May 2007.

[32] Afghanistan Opium Survey 2007, op.cit. According to UNODC, the Government's opium eradication programme in 2007 destroyed only marginal areas of production.

[33] http://siteresources.worldbank.org/SOUTHASIAEXT/Resources/Publications/448813-1164651372704/UNDC_Ch7.pdf.

[34] Information provided to the Team by the Afghan authorities.

23. By resolution 1735 (2006), the Security Council encouraged States to submit to the Committee for inclusion on the List names of individuals supporting Al-Qaida and the Taliban with proceeds derived from illicit cultivation, production, and trafficking of narcotic drugs originating in Afghanistan.[35] The Team notes that some States have begun to look seriously at doing so.

III. THE CONSOLIDATED LIST

24. As of 30 September 2007, the Consolidated List had 489 entries: 142 individuals associated with the Taliban, and 223 individuals and 124 entities associated with Al-Qaida. The List also noted 22 individuals and entities that had been de-listed.

25. The inconsistent relevance of the List to the current threat continues to undermine the effectiveness of the sanctions regime. Although procedures for listing are now clearer and available on the Committee website,[36] many prominent leaders of the Taliban and Al-Qaida have not been listed, and there have been only five names added since the start of 2007, the lowest annual rate of increase ever, continuing a downward trend observable since 2001.[37]

26. States have told the Team that the reasons they have not submitted more names are either political, for example when the people concerned are non-nationals whose listing may seem an intrusion into the affairs of another State; domestic, when listing may appear to stigmatize a particular segment of the community or could be interpreted as a political act against an opposition figure; practical, when the publicity attracted by a listing might jeopardize an investigation; or legal, when a State might fear the consequences of a legal challenge to its application of the measures. States may also hesitate to suggest the listing of their own nationals for fear that this would suggest a particular problem with terrorism. In addition, there is continued concern that sanctions have a punitive effect, whatever is said about them as a preventive measure, and that the listing process should therefore incorporate higher standards of fairness.

27. Given the importance of the List being seen as a credible expression of the threat, the Team recommends that Committee members themselves do more to update it. In support, the Team suggests that it submit to the Committee at three-month intervals the names of entities and individuals that it believes should merit consideration for listing, based on information gathered from States and other sources.[38] This would not be completely without precedent; the expert group established by resolution 1591 (2005) to support the Sudan sanctions regime is specifically included as a relevant source of information that may lead to designations.[39]

28. In contrast to the lack of new listings, States have provided much new information on existing entries, generally during visits by the Team. Since the submission of the Team's November 2006

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[35] Paragraph 12 of resolution 1735 (2006).

[36] Fact sheet on listing, www.un.org/sc/committees/1267/fact_sheet_listing.shtml.

[37] In 2000 there were seven listings; 2001 – 278; 2002 – 54; 2003 – 77; 2004 – 44; 2005 – 32; 2006 - 24.

[38] See annex II for examples of possible changes to the entities in the Al-Qaida section of the List.

[39] Paragraph 3(c) of resolution 1591 (2005).

report (S/2007/132), the Committee has approved more than 130 amendments, half of them to the Taliban section of the List as a result of considerable work by the Government of Afghanistan. It is also noteworthy that one of the new names on the List is the first addition to the Taliban section since 2001. Another improvement to the List has been the rendering of names in their original script. This is intended to overcome the lack of standardized systems of transliteration and the Team has worked closely with relevant governments to ensure that the names are written as they might appear in national identity documents. However, it appears that financial institutions and others involved in implementation are not yet aware of this and the Team recommends that the Committee and States find ways to bring it to wider attention.

29. It is especially important to improve existing entries which lack identifiers; States cannot implement the sanctions unless they can identify their target, and the presence of inadequate entries on the List undermines its overall credibility. Also, poorly identified names risk application of the sanctions to the wrong persons. The lack of identifiers on the List is consistently quoted by States, and those responsible for compliance in banks and other institutions, as the principal reason for a lack of thorough implementation. The Team recommends that the Committee encourage States to inform it when they encounter problems of implementation because of a lack of identifiers. The Committee could then consider how to improve these specific entries, in conjunction with the original submitting State(s) and, where appropriate, with the States of nationality and residence. The Committee should consider what action to take if no more identifying information can be found.

30. In a further effort to improve the value of the Consolidated List, and to take account of recent changes in the Committee procedures and practices, the Team recommends that the Committee bring up to date the introductory page of the List,[40] which is intended to give general guidance on the List and the way it is constructed. For example, the Committee could make clear which is the family name or equivalent for all listings for individuals. The Team also proposes that the Committee modify the Guidance Note on searching the List to ensure consistency with the introductory page. Both updates would help to ensure that electronic searches of the List are properly conducted.[41] Having changed the introductory page, the Team proposes that the Committee then request the Team to offer amendments to the List to ensure that it matches the information given on the introductory page and that there is basic consistency between entries.[42]

31. The Committee approved a recommendation in the Team's last report (S/2007/132, para. 58) to include on its website a version of the List in Excel (xls) and plain text (txt) formats to make it easier for banks and other financial institutions, as well some international organizations, to incorporate a searchable version on their databases. This work is now complete.

32. The Team believes that the more the List is used operationally by security and law enforcement agencies the more additional information is likely to be found and added. It intends to

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[40] www.un.org/sc/committees/1267/consolist.shtml.

[41] www.un.org/sc/committees/1267/pdf/sguidance.pdf.

[42] The Team could draft a proposal for review by the Committee, and in doing so, benefit from other relevant organizations' expertise on this issue, for example the International Criminal Police Organization (INTERPOL) and the International Civil Aviation Organization (ICAO).

identify potentially appropriate international databases of terrorists and their associates, such as that proposed by the Russian Federal Security Service (FSB) at the sixth international meeting of the heads of special services, security agencies and law-enforcement organizations held at Khabarovsk (Russian Federation) in September 2007.[43] It will then recommend to the Committee that the Team approach the custodians of suitable databases to propose that they include the Consolidated List. However, it is worth remembering that at the other end of the spectrum there are some States that still have technical problems entering the List in their own national watch lists.

33. Some States have reported legal or other objections to incorporating section E of the List into their databases; this section contains the names of people and entities that have been removed from the List. The Committee has not agreed to the Team's earlier proposal that section E be deleted (S/2006/750, para. 28), but to address the concern of States, the Team recommends that if the Committee wishes to retain this section, it relocate it to its website as a separate document with a hyperlink to the main List. If required by the Committee, the Secretariat could continue to send Section E, together with the rest of the List, to all Member States, regional and sub-regional organizations when re-circulating it as required by paragraph 19 of resolution 1526 (2004).

34. The checklist introduced by paragraph 10 of resolution 1617 (2005), and available on the Committee website,[44] was intended to remind Member States to take action with regard to new listings. It now needs updating. The Team has suggested that an amended checklist could offer States a useful tool to submit new information for the List, or to inform the Committee of action taken to implement the sanctions against names other than those most recently added (S/2007/132, paras. 26-27). The Team recommends that the Committee revisit this idea, and in any case bring the checklist up to date.

35. The cover sheet, introduced by annex I of resolution 1735 (2006),[45] also available on the Committee website, was designed to offer practical guidance on submissions for listing. Some Member States have also used the cover sheet to provide additional information regarding existing listings, and the Team fully supports such use. It therefore recommends that the Committee adjust the wording of the cover sheet to make it appropriate for this purpose.

36. Finally, to help States apply the measures against individuals, it might be useful to add more information on the List as to the primary reason for the listing. If an individual has been added because the main risk that he poses is as a financier, and if States were aware of this, then they might make a special effort to identify his assets; if the main risk was that the individual facilitates travel, or provides training or weapons, then other appropriate action might take priority. The Team recommends that the Committee add such detail to the List where submitting States agree.

37. The issue of dead people on the List continues to raise questions about its credibility. The Committee has followed an earlier recommendation of the Team to note on the List when an

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[43] http://russiatoday.ru/news/news/13756.

[44] www.un.org/sc/committees/1267/pdf/checklist.pdf.

[45] www.un.org/sc/committees/1267/pdf/coversheet.pdf.

individual is believed to be dead,[46] and there are currently 11 such entries; but the Team is aware of several other cases where it seems that a listed individual is dead. In its first report, the Team recommended that the Committee adopt a mechanism to permit the removal of such names (S/2004/679, para. 61), and, in April 2006, the Committee sent a note verbale to all States outlining new procedures in this regard.[47] In addition, the Focal Point for De-listing[48] established by Security Council resolution 1730 (2006), may accept a request for de-listing from the family of a deceased listed individual, or from their representative, and this has made it easier for the rightful (non-listed) heirs of a deceased individual to have a request processed when no State is ready to act on their behalf.

38. Some States have expressed concern to the Team about the need to provide a death certificate to the Committee in support of a proposal to remove the name of a deceased person from the List. In some States no death certificates are issued, and in others record keeping has been disrupted by internal conflict. Elsewhere deaths have occurred in violent circumstances and the authorities have not been able or willing to issue an official document to certify the death. Many States are not sure what alternative to a death certificate might satisfy the Committee and the Team recommends that the Committee provide more guidance on what it requires in order to consider removing an individual from the List on account of his death.

IV. IMPLEMENTATION OF THE SANCTIONS

A. Review mechanism

39. In earlier reports the Team proposed that the Committee introduce some form of periodic review of listings, and the topic has been debated elsewhere.[49] After considerable discussion, the Committee amended its guidelines on 29 November 2006 to create a new section 6(i), which provides that:

> Every year, the Secretariat shall circulate to the Committee the names on the Consolidated List that have not been updated in four or more years [….] any Member of the Committee may request a review of a listing, accompanied by a justification for that review. [….] The designating State(s) and the State(s) of residence and/or citizenship may submit updated information on the listed individual or entity, including identifying data. Such a review would take place without any presumption as to its outcome. The listing will be automatically renewed, unless the Committee decides to remove the name from the Consolidated List.

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[46] S/2007/132, para. 20.

[47] SCA/2/06(8), April 2006.

[48] www.un.org/sc/committees/dfp.shtml.

[49] See, for example, the Team's fourth report on discussions at the Team's third regional meeting with the heads and deputy heads of security and intelligence services for seven Arab States and Pakistan (S/2006/154, para. 49); remarks of Switzerland at the 5446th meeting of the Security Council (S/PV.5446, p.28); the Team's fifth report on a paper prepared by the Watson Institute for International Affairs (S/2006/750, para. 38); and comments by the Legal Counsel of the United Nations (S/PV.5474, p. 5); comments by the United Nations Commission on Human Rights Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/61/267, para. 34).

40. Accordingly, the Secretariat circulated to the Committee in March 2007 a list of 115 names that had not been updated in four or more years. Very few were selected for review and ultimately, after all the procedures outlined in the Committee Guidelines had been completed, including efforts to obtain information from other relevant States, the review ended without any changes to the List.

41. This review was intended to serve two important purposes: to update entries which may have been neglected; and, at discretion of the Committee, to remove names which no longer met the criteria for listing. As the sanctions are intended to be preventive and temporary in nature, and may escape some criminal procedural requirements on this basis, it is necessary as a matter of fairness to ensure that they are not applied any longer than the rationale that occasioned them continues, and in particular to ensure that listings do not become permanent (and therefore punitive) through neglect. An effective review also enhances political support for the sanctions regime and decreases the likelihood that legal challenges, when they do occur, will succeed. Finally, the chance of a review may help persuade listed individuals and entities to end their support for Al-Qaida and the Taliban.

42. The 6(i) process has been conducted only once, and any judgement of its effectiveness is therefore very preliminary. Nevertheless, given the results of the first review, the Team recommends that the Committee consider changes to the process, in particular to increase the number of listings selected for review each year. A more progressive approach would be to invert the Guidelines' current rule, and create a presumption that every listing that has not been updated for four years or more will be reviewed during the 6(i) process, unless a Committee member asks to exclude it. Or, according to agreed criteria, the Committee could require that a minimum number of names from the pool of those qualifying be reviewed each year.

43. In any case, the Committee should clarify what happens to names that are included in the 6(i) pool but are not selected by the Committee for review. A plain reading of the guidelines suggests that these names would also be considered in the next year's 6(i) review, if no updates had been made. However, some States have told the Team that they interpret the guidelines to mean that such names, once considered for review, cannot come forward again for another four years. This would seem contrary to the objectives of the review.

44. It is also worth considering whether all updates to an entry should be treated equally for the purposes of a 6(i) review. The current rule seems to suggest that even a very minor update would remove a listing from the pool eligible for review. One possible solution would be to limit the types that count under the four-year requirement to specified categories; for example, the addition of identifiers or definitive information about current whereabouts, convictions or incarcerations. Even then, the Committee may wish to distinguish further between significant and negligible updates to these categories, so that minor changes do not return listings to the start of the process.

45. The Committee might also consider making the list of names selected by the Committee for review public, perhaps on its website. This would have two benefits; first, it would advertise that the Committee is undertaking such a review, improving the public perception of the fairness of its procedures; and second, it might attract updates or other useful information from a broader range of sources than those currently mentioned in the guidelines (designating State, State of residence, State

of nationality). The Team also suggests that the Committee continue to make clear that the review process does not prevent a member of the Committee, or any other Member State, from submitting additional information on a listing, or proposing a name for de-listing, at any other time, according to established procedures.

46. The Committee may also wish to clarify the relationship between review and possible de-listing under paragraph 6(i) of its Guidelines and the procedures for de-listing at paragraph 8. Among the issues for the Committee to consider are whether, in consulting the designating State and the States of residence or nationality, the Committee should invite their opinion on whether the person should remain listed, or even offer the opportunity to the State or the listed person to submit a de-listing petition as part of this process.

47. The Team notes that a system that reviewed all listings on a periodic basis, regardless of updates, would avoid many of the problems discussed above. With this in mind, the Team suggests as an alternative a review of every name on the List on the fourth anniversary of its listing, and at the same or shorter intervals thereafter in order to ensure that the List remains as up to date and relevant as possible.

48. Finally, it is worth noting that since the Security Council first adopted sanctions against the Taliban in resolution 1267 (1999), it has frequently reviewed and revised the entire sanctions regime. Most recently, paragraph 33 of resolution 1735 (2006) provides for review of the sanctions after 18 months. This regular review of the continued validity of sanctions and the methodology used to impose them plays an integral part in providing the due process needed to keep sanctions fair and viable.

B. Partial and global listings

49. In a number of cases, the Committee has chosen to list only particular offices of an entity while leaving others untouched. It has used two methods to do this. Either it has created individual listings for particular countries where the organization is present, as with the 14 listings for Al-Haramain[50] or the individual listings for the Philippines and Indonesia branch offices of the Islamic International Relief Organization (IIRO) (QE.I.126.06. and QE.I.127.06 respectively). Or, for the Revival of Islamic Heritage Society (RIHS) (QE.R.70.02), the Committee has created a single List entry for the organization but specified that the listing applies only to certain branches by stating: "NOTE: Only the Pakistan and Afghanistan offices of this entity are hereby designated".[51]

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[50] See Al-Haramain & Al Masjed Al-Aqsa Charity Foundation (QE.A.109.04.); Al-Haramain Afghanistan Branch (QE.A.110.04); Al-Haramain: Albania Branch (QE.A.111.04); Al-Haramain: Bangladesh Branch (QE.A 112.04.); Al-Haramain: Ethiopia Branch (QE.A.113.04.); Al-Haramain Foundation (Indonesia) (QE.A.103.04.); Al-Haramain Foundation (Pakistan) (QE.A.104.04.); Al-Haramain Foundation (Union of the Comoros) (QE.A.116.04.); Al-Haramain Foundation (United States of America) (QE.A.117.04.); Al-Haramain Islamic Foundation (QE.A.71.02.); Al-Haramain Islamic Foundation (QE.A.72.02.); Al-Haramain: The Netherlands Branch (QE.A.114.04.); Al-Haramayn Foundation (Kenya) (QE.A.105.04.); and Al-Haramayn Foundation (Tanzania) (QE.A.106.04.).

[51] The Consolidated List as updated on 21 September 2007.

50. Some Member States have expressed confusion over these country-specific listings. For example, one Member State has frozen assets of RIHS* offices in its territory despite the statement in the List that "[o]nly the Pakistan and Afghanistan offices of this entity are hereby designated". Another State has taken similar action against RIHS*, and has also frozen assets of a local branch of the Taibah International Aid Agency (QE.T.108.04), even though only its offices in Bosnia and Herzegovina are listed. The Team suggests that the Committee provide guidance on such partial listings of multi-national entities, in particular to explain the scope of interaction permitted under the assets freeze between listed and unlisted offices.[52]

51. Others have questioned the meaning of listings for multinational organizations which are not expressly limited by one of the methods above. For example, whether the single listing for the Global Relief Foundation (QE.G.91.02) (GRF) applies to all offices of the organization world-wide, or only those mentioned in the address section of the listing, which details the specific location of branches in seven countries, and notes 16 other countries where the organization is known to exist. The absence of guidance on this point has led some States to conclude that such listings apply to offices not specifically mentioned: one State, for example, has reported freezing assets of a local office of Al-Barakaat (QE.A.24.01) even though the List entry for the organization does not specify a location in that country.

52. At the same time, other States interpret country-specific designations by the Committee to mean that sanctions apply only to offices mentioned on the List, even for listings like GRF*. Some States are further inclined towards this interpretation by domestic laws which provide that a branch of a foreign entity in their territory has an independent existence from its global parent. The Committee may wish to clarify the appropriate reading of such listings and to establish a uniform approach to make its intent explicit.

53. These problems do not arise where all offices of an organization are known – such listings can be limited specifically to these offices (preferably with all listed simultaneously to avoid allowing some an opportunity to hide their assets).[53] But often it cannot be known with certainty that all offices of an organization have been identified in one country, let alone worldwide. In one State where six locations of an organization were noted, the Team found information indicating that more than 25 offices were or had been in operation. In another, authorities informed the Team that an organization with one location listed in the State's capital had various regional branch offices.

54. Accordingly, the danger of narrowly interpreting listings like GRF* is that unmentioned offices will be able to move assets to safety before they are identified and added to the List. The Team therefore recommends that the Committee make clear that, where not expressly limited to particular offices, listings apply to all offices of the organization in all Member States, whether mentioned specifically or not. This could be done by stating explicitly in future listings that the listing includes all such branches and subsidiaries. This would be straightforward for new listings, but it could be burdensome to amend existing listings to reflect this interpretation. As an alternative, this

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[52] In particular, the Committee may wish to consider the obligation to freeze "funds derived from property owned or controlled, directly or indirectly, or by persons acting on their behalf or at their direction", resolution 1735 (2006), para. 1(a).

[53] See the Team's previous discussion on this point in its fifth report (S/2006/750, paras. 69-70).

interpretation could be established as a default rule in the introduction to the List itself, which would have the advantage that it could then be read to apply to both existing and future listings. Of course, neither option would preclude the Committee from explicitly limiting listings to particular offices by one of the methods described above.

55. This broader approach would require States to investigate whether organizations within their jurisdiction with the same name or other characteristics in common with a listed entity are indeed part of it. It also presents the risk that the assets freeze will be applied to organizations unconnected to the listed entity. But the relevant resolutions already encourage States to look for such connections and already give States discretion to decide whether assets in their territory belong to a listed entity.

56. The more difficult problem is the constraints some States face under their domestic laws against imputing the application of sanctions against unmentioned offices of a listed organization in their territory. With this in mind, the Committee may wish also to consider alternatives to a mandatory rule, such as guidance that urges States to interpret listings in this manner without requiring it. The Team stands ready to assist the Committee in further considering this issue, and to provide written analysis as needed. Regardless of whether this interpretation is adopted as a mandatory rule or guidance, States that find unmentioned offices in their territory should be urged to alert the Committee to their discovery and to submit information about the branch for listing.

V. ASSETS FREEZE

57. Inevitably, the effect of the assets freeze is generally measured in terms of the amounts of assets frozen, but this overlooks the unquantifiable deterrent effect of the assets freeze on potential donors and its inhibiting effect on listed groups that have had to find alternative and perhaps more costly ways to move and store their money. The Team estimates that approximately $85 million remains frozen under the sanctions regime, down from the $91.4 million quoted in its last two reports.[54] The reduction reflects the action of one State's discovery that assets it had reported frozen did not in fact belong to a listed party, and the deduction of Taliban assets that had been frozen but were later released to the Afghan Government. Two additional States have frozen assets since the Team's last report, which brings the total of States that have reported doing so to 36.

58. The Team knows of 435 freezing actions taken by Member States involving the assets of around 165 of the 489 individuals and entities on the Consolidated List, primarily in bank accounts. The Team calculates that over 95 per cent of the total value of assets reported frozen results from the freezing actions of nine States. However, several States, whilst reporting that they have frozen assets, have not revealed the amount, and a significant number of States have not said whether they have taken freezing actions or not. It can be assumed that some will have done so.[55]

59. Clearly, the chance of finding assets is greatest immediately following a listing, and the Team has not seen evidence that any asset of a listed individual or entity has been identified and frozen as a

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[54] S/2006/750, para. 59 and S/2007/132, para. 50.

[55] Annex III – Impact of listings on the value of frozen assets.

result of an update to the List, even when that has made the identity of the listed party much clearer. Not all new listings lead to assets being found and frozen and of the 29 new listings since January 2006, the Team knows of specific freezing actions only in relation to four.

A. General observations

60. A Team visit to one State found that it had no legal basis to freeze assets and therefore did not see any reason to circulate the Consolidated List to banks. It now appears that this problem is far more widespread than previously thought. Several Member States that have reported an ability to freeze assets under the 1267 sanctions regime in fact do not have it, as they require a court judgement before taking action. Other States that assume they have the necessary legislation to take immediate action may find it wanting if and when they discover assets to freeze. For example one State told the Team that while it lacked a specific law to implement the assets freeze measure, it could invoke a provision in the penal code relating to illegal organizations and associations to achieve the same effect. The Team noted however, that for the relevant provision to be invoked, it would require the President to issue an order declaring the listed entity an illegal organization, which had not yet been attempted, and at the very least would introduce a delay in implementation.

61. Another State told the Team that it planned to implement the assets freeze through legislation to criminalize entities listed by the 1267 Committee which would also facilitate the application of measures beyond the freezing of their assets. These might include confiscation of their assets, closing the entities down, or forcing them into liquidation. However the Team notes that the regime does not require such action, which could in fact create problems with implementation as listings are not designed to meet the procedural requirements of a criminal statute.

62. Any delay between a listing becoming public and the measures taking effect in all Member States may allow the listed party to move assets out of the reach of sanctions. Because some States insist on receiving a hardcopy, formal notification of a new listing in their capital before taking action, and the time for this to arrive varies, targets may become aware of the measures imposed on them before authorities in the State or States where they have assets receive and implement the notification of their listing. It recommends therefore that following a listing decision, the Committee alert the relevant State or States where funds or economic resources are known or believed to be located immediately before circulating the notice of the listing more generally.

63. This issue is also relevant to the reporting requirements requested of States in accordance with resolutions 1455 (2003) and 1617 (2005). These requests for implementation reports apply to all States but have proved unpopular with many because of the administrative burdens they impose. However, the information most likely to be of value to the Committee will come from the State(s) where the listed individual or entity operates or seeks to operate. There should be more urgency attached to receiving reports from these States than from others, and the Team recommends that the Committee reduce the burden of reporting on States by targeting its requests for information more precisely, perhaps also mandating the Team to collect it rather than pressing the State to deliver it on its own.

64. Implementation of the sanctions regime demands action by States rather than by the targets of the measures, but the assets freeze would be more effective if listed individuals and entities were required to disclose their assets in the same way that some States require a traveller to declare what cash he is carrying in excess of a certain amount when he crosses into their territory. The Team has already recommended that States require that anyone under their jurisdiction disclose to the authorities any knowledge concerning the assets of a listed person (S/2007/132, para 65.), but it further suggests that the Committee recommend that States also place similar obligations on listed parties themselves. This requirement could be reported to individuals and entities along with notification of their listing (resolution 1735 (2006), paras. 10-11).

65. Finally, some Member States require anyone opening a bank account in their name but on behalf of another party to disclose this fact to the bank or financial institution concerned, or face criminal charges. The Team sees this as a measure that would also make it harder for listed parties to benefit from nominee accounts.

B. Help desk

66. It is a common complaint that the List does not in all cases include enough identifiers to allow an easy determination of who is meant by the listing. States are left to determine how to apply these listings, or, if in difficulty, to refer the matter to the Committee, which will then bring in the designating State(s) to help. But the problem is more immediate and harder for private bodies like banks which must comply with the sanctions but have no way of checking quickly whether a proposed transaction involves a listed party when the details on the List are not specific. The Team has previously recommended that each State establish a national body to oversee the implementation of the sanctions regime, and now suggests that this body could also act as a 'help desk' to deal with such problems.

67. This is not to allow banks and others to pass back their due diligence responsibilities to the State, but banks have informed the Team that in such circumstances, if their regulating authorities are not able to provide clarification at short notice, they simply process the transaction (money transfer or withdrawal) and later report it through a suspicious activity report (SAR).[56] In view of the regulations governing the time allowed for filing these reports in some States,[57] by the time the activity comes to official attention the funds are long gone.

68. A national 'help desk' would be of most value if States could deal directly with the designating State without having to go through the Committee, but several States say that they would be less inclined to submit new names for listing if they were to be recorded on the List as the designating State. In any case, States,[58] regional organizations[59] and private bodies recognize that it

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[56] Information provided to the Team by officials from the bankers association in a Member State.

[57] Up to 30 days in some States.

[58] According to one State visited by the Team, the Committee should directly provide the additional information to requesting States even if the sources of the additional information were designating States.

[59] Council of the European Union best practices for the effective implementation of restrictive measures, Annex 11679/07, para. 15 (9 July 2007).

is the Committee that owns the List, and it is for the Committee to decide how to deal with requests for more information from States for implementation purposes.

69. The Committee has dealt with such requests principally in two ways: it has provided the answers directly to the requesting State, or it has referred the request to the designating State(s). The Committee has no means of evaluating the effectiveness of this referral system, let alone of knowing whether the designating State ever provided information to the requesting State. During one country visit, the Team learnt that the State was still waiting for a reply after three years.

70. Requests for further information should not be seen as a way to question the rationale behind a listing, but rather as a means of improving implementation. Concerns regarding the confidentiality of information may limit the dialogue between requesting States and designating States, but it appears that when a requesting State supplies as much information as possible under their own disclosure laws, the task for the designating State is much easier, often allowing a simple confirmation that the subject of the enquiry is or is not the listed party. When the designating State cannot answer the enquiry, it should let the Committee know so that the Committee can look for possible alternative sources of information.

71. The Team also recommends that the Committee mandate it or the Secretariat to keep a list of all requests for additional information received by the Committee, noting whether they have been passed to the designating States and what reply has been received. The Team or Secretariat could also ask the requesting States how implementation had been affected at the end of the process. The Team recognizes that there are national and international laws that limit the exchange of information between States, but international cooperation is essential for the effective implementation of the assets freeze. It proposes to examine further the possibility of a more active role for the Committee and the Team in processing requests for information between States concerning entries on the List.

C. Offshore entities

72. Offshore entities, also called International Business Corporations (IBC) are companies, trusts, entities or corporate vehicles registered in an offshore financial centre (OFC). They are incorporated to own and operate other businesses/entities, issue shares, bonds, or raise capital in other ways. IBCs are often used to create complex financial structures and in some cases residents of the OFC may act as nominee directors or shareholders to conceal the identity of the true company directors or shareholders. In some OFCs, bearer share certificates may be used, in others, registered share certificates are issued, but no public registry of shareholders is maintained. Generally speaking therefore, regulators or other authorities in most OFCs will not require information on the trusts or investors who are conducting business there. Indeed, some centres have legislation which makes the release of information on beneficial owners of shares, held on their behalf by lawyers or other company incorporation agents, a criminal offence, unless under exceptional circumstances.

73. As a result, offshore entities present particular challenges for regulatory authorities, including (i) identifying where the business actually operates, which may be in cyber-space; (ii) examining accounts; (iii) identifying assets and their whereabouts; (iv) identifying beneficial owners of IBCs,

and (v) noting any change in their legal status, which can be slow to filter through international financial systems, even when this involves the cancellation of registration or licenses. These factors are what make IBCs and OFCs attractive to investors who are looking for anonymity and the ability to operate without official scrutiny.

74. The Consolidated List includes four entities that are incorporated in States which are well known as OFCs, and at least two individuals linked to non-listed IBCs.[60] However, the States of incorporation, residence or nationality for these entities and individuals have not reported any freezing actions under the sanctions regime, and only one other State has taken action against one of the entities which operates within its jurisdiction. It is as if the other entities had no assets at all.

75. For their part, the States of incorporation have simply revoked the registration of IBCs following their listing without ever tracing their assets. It is likely that they know as little about the IBCs' place of business as the States where they operate know about their ownership. There is therefore a risk that an IBC will continue in business in a foreign jurisdiction even after deregistration or the loss of its licence, especially where States have not obliged banks to implement regular 'know your customer' (KYC) reviews.

76. The Team believes that States are better placed to implement the asset freeze measures against listed IBCs and their owners if:

a. they check beneficial owners, directors or managers of IBCs against the Consolidated List;

b. they are able to pass information to other authorities concerning individuals and entities that appear on the Consolidated List;

c. they are informed by States in which many IBCs choose to register when the registration is revoked;

d. their banks and other relevant bodies implement frequent, perhaps annual, 'know your customer' reviews;

e. if the Committee is informed when a listed IBC is placed under receivership; and

f. if they prohibit the issuance of bearer shares, or the opening of bank accounts for entities with such shares.

77. The Team has previously recommended that States ensure that company registration offices screen new companies and their directors and owners against the List (S/2006/750, para. 79). The Team also believes that this exercise should be repeated regularly to take account of any changes in ownership post registration.

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[60] Information provided to the Team by Member States.

D. Improving sanctions compliance

78. A 2007 survey of 224 banks in 55 jurisdictions noted the rising cost to private institutions of anti-money laundering and combating the financing terrorism (AML/CFT) activities.[61] Average AML/CFT spending by these banks had increased by 58 per cent between 2004 and 2007,[62] with the greatest increase in transactions monitoring systems, employee training and sanctions compliance programmes. Although the banks had continued to invest in technology to monitor customers' banking transactions, almost all said that they relied on alert personnel to identify suspicious transactions and/or perform further analysis of initial reports generated from such systems, so emphasizing the importance of well-trained staff.[63]

79. In order to assist their efforts, banks consistently ask their regulatory and other authorities for guidance on the patterns of activity they should look for. Some authorities have responded, or are trying to respond; but the Team believes that lists of indicators can be dangerous if they seem to exclude others. The Team has not discerned any regular patterns in terrorist financing, and any indicators can only be partial and must be updated as new investigations reveal new methodology. The growing convergence between methods of terrorist financing, especially at a local level, and other criminal activity, has made it harder still to distinguish one from the other.

80. However, in an effort to help banks and other financial institutions, the Team has discussed the issue widely and has approached a range of States where terrorist crimes have been investigated to see what lessons can be learnt and experiences shared. It will report its findings to the Committee with appropriate recommendations as to how best to share this information without alerting the targets of the sanctions.

81. Transactions filtering systems, which allow an automatic comparison between listed names and customer databases or parties to customers' transactions, can cost more than smaller banks can afford. There are however systems available freely on the Internet which banks or other obligated parties can access directly or download to work off-line. These databases generally contain lists of individuals and entities subject to national measures, but also include individuals and entities related to United Nations sanctions regimes. The Team would not wish to recommend any particular online filtering database from the range available, but is open to discuss them with States if asked. Any institution planning to use such systems would have to consider such things as the language of the database, the availability of technical support and the likely expense of maintenance in the short and long term.

E. Successor organizations

82. The Team continues to receive reports of pre- and post-listing transfers of assets (especially non-monetary assets) and key personnel from listed entities to other existing or newly-founded bodies which perform functions similar to the overt business of the listed organization. Many post-listing

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[61] KPMG International, *Global Anti-Money Laundering Survey 2007*, p.46, www.kpmg.com/Services/Advisory/Other/AML2007.htm.

[62] Ibid., p.7.

[63] Ibid., p.33.

transfers appear to occur because Member States fail to apply the sanctions to the non-monetary property of listed organizations, allowing transfers of vehicles, real estate, office equipment and other assets. In other cases, States appear to have allowed such transfers based on their assessment that the receiving organization is not engaged in support of terrorism or other questionable activity (S/2006/750, para. 74).

83. The Team renews its recommendation that the Committee remind States of their obligation to freeze all assets of a listed entity and not allow them to be transferred or used by others, even for purposes believed by the Member State to be legitimate, except pursuant to exemption obtained under resolution 1452 (2002).[64] At the same time, the Committee could encourage States to apply the freeze to pre-listing transfers that appear intended to evade the assets freeze (subject to the requirements of domestic legislation).[65] Although this recommendation is directed primarily at future listings, the Committee may wish to provide more specific, targeted guidance to States where such transfers are known to have occurred already.

84. The Team further recommends that the Committee take steps to address the broader problem of Member State failure to track and freeze the non-monetary assets of listed entities. In the Team's experience, the value of real estate, vehicles and equipment often greatly exceeds the operating cash kept in an organization's bank account, especially where an organization has had advanced warning of a listing and an opportunity to move more liquid assets elsewhere. Failure to track such non-monetary assets not only weakens implementation of the sanctions, but makes it more difficult for State authorities to determine whether a listed entity continues to operate. At a minimum, the Committee might remind Member States that by referring in paragraph 1(a) of resolution 1735 (2006) to "funds and other financial assets or economic resources", the Security Council has indicated that "funds" are only one subset of the broader universe of "financial assets" to which the sanctions apply, and that "economic resources" are something additional to either of these. And to the extent there is any remaining doubt whether this term applies to non-monetary property, the confirmation in paragraph 3 of resolution 1735 (2006) that "the requirements in paragraph 1(a) […] apply to economic resources of *every kind*" (emphasis added) should remove it.

85. The Committee could provide further guidance on this point by placing on its website a non-exclusive list of specific types of non-monetary property encompassed by the sanctions.[66] The Committee provided such a non-exclusive list (in a note verbale) for the "funds and financial resources" covered by paragraph 4(b) of resolution 1267 (1999).[67] Similarly, the Security Council Committee established pursuant to resolution 1518 (2003) maintains a non-binding, non-exclusive list of "funds and financial assets" and "economic resources", suggesting that the latter includes: "[a]ssets

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[64] Ibid.

[65] See discussion ibid., para. 75.

[66] See the Team's previous suggestion for definition of the assets covered by the assets freeze in its sixth report (S/2007/132, box 4).

[67] SCA/7/00 (3) (dated 12 April 2000); see also SC/6844 (quoting relevant portions of the note verbale). At the time, the sanctions regime applied only to "funds and financial resources," and then only to those related to the Taliban. See resolution 1267 (1999) para. 4(b). Resolution 1390 (2002) established a broader assets freeze which also included "economic resources". The definition in the note verbale appears to have been mandatory: Member States were "required to freeze the funds and financial resources" as designated in the list of specific examples provided by the Committee. Any list of non-monetary property established by the Committee, of course, need not be so, as the example below shows.

of every kind, whether tangible or intangible, movable or immovable, which are not funds."[68] Other States and international working groups have established definitions with useful specific examples of non-monetary assets such as "real property, including land and fixtures to land", "moveable property, including goods and chattels", "bullion", "precious stones",[69] "wares", "merchandise", and "ships".[70] Any list of examples established by the Committee need not be long but should have enough concrete examples to alert Member States to their obligation to freeze non-monetary property.

86. In addition to providing guidance on assets, the Committee may wish to help States recognize when an organization is a successor to a listed entity. This could include, for example, listing possible indicators such as: (i) having the same directors or other key employees as the listed organization; (ii) having common shareholders or ownership; (iii) having the same address; (iv) carrying on activities similar to those of the listed entity in the same place and in cooperation with the same partners; (v) in the case of charities, having the same donors; (vi) paying the debts or satisfying other obligations of the listed entity; (vii) having received financing from, or provided financing to, the listed organization; (viii) having commingled accounts or joint investments; (ix) having commingled operations; (x) the listed entity having caused incorporation of the new organization; (xi) having treated the other entity's property as its own; or (xii) having a history of consolidated financial statements or tax returns. Case studies illustrating particular examples would also be helpful, and the Team is ready to assist as needed.[71]

87. Finally, the Committee could continue to encourage States to propose additional listings and updates that guard against attempts to circumvent the sanctions through successor organizations. In particular States should designate and monitor the activities of individuals who direct the operations of listed organizations or are otherwise involved in their support for Al-Qaida and the Taliban (S/2007/132, para. 15). This would help to alert States to the creation of successor organizations, and ensure that the assets of any successor body controlled by such persons will be frozen. At the same time, in cases where such persons acquire control over an otherwise legitimate organization, it allows the organization to protect itself from sanction by severing ties with the listed individual. Likewise, the Committee should continue to encourage States to update the entries of listed organizations with the names of new incarnations intended to operate on their behalf.

88. As experience with freezing assets grows, so too does the accumulation of good practice. Both the Council of the European Union[72] and the Financial Action Task Force (FATF)[73] have collated

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[68] See Non-Paper on the Implementation of paragraph 23 of resolution 1483 (2003), www.un.org/sc/committees/1518/pdf/Non-paper.pdf.

[69] Watson Institute for International Studies, *Targeted Financial Sanctions: A Manual for Design and Implementation: Contributions from the Interlaken Process* (2001).

[70] United States Code of Federal Regulations, Title 31, Section 594.309 (2007) (defining property covered by sanction to include, but not to be limited to: "goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, […] and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.").

[71] Examples could be drawn from the experience of Member States, such as the alleged emergence of the Al-Akhtar Trust International (QE.A.121.05) from the Al Rashid Trust (QE.A.5.01), (see www.ustreas.gov/press/releases/js899.htm). In the same vein, it would be helpful to have indicators and examples of pre-listing transfers intended to evade sanctions, to help Member States recognize and invalidate such transfers.

[72] Council of the European Union best practices for the effective implementation of restrictive measures, op.cit.

[73] For example see: FATF/OECD, Freezing Terrorists Assets, International Best Practices, 3 October 2003, www.oecd.org/dataoecd/30/43/34242709.pdf.

such information and the Team applauds this work. It believes that any move towards global harmonization in the application of the assets freeze measure will make it harder for the Taliban and Al-Qaida-related terrorists to exploit weaker systems.

VI. TRAVEL BAN

89. The objective of the travel ban is to prevent listed individuals from crossing borders unless specifically authorized.[74] It is a potentially powerful tool, especially against the more visible listed associates of Al-Qaida and the Taliban, such as financiers, who may find it less easy to adopt a false identity. Full and comprehensive implementation of the travel ban would provide real dividends in countering Al-Qaida/Taliban terrorism, but the evidence suggests that its current impact is limited.

90. A principal weakness arises from the need for States to allow the movement of large numbers of people across their borders without undue delay while seeking to prevent the entry or transit of the small group of determined, patient, and adaptable terrorists who feature on the Consolidated List. While greater international cooperation on law enforcement, intelligence and diplomatic fronts, and improved border control systems in Member States, have all made terrorist travel more difficult, the key to successful implementation of the sanctions regime is the amount of accurate detail on the Consolidated List. Recent improvements to the List, especially with respect to the current status and whereabouts of listed individuals, will help immigration and border authorities to make swift decisions with less risk of inadvertently allowing a listed person to pass.

91. But more must be done. The List now records that 18 listed individuals have been extradited, expelled, deported or repatriated from one State to another, but States have not been reporting this information in a timely fashion as they are encouraged to do by paragraph 9 of resolution 1735 (2006). The Team has however managed to collect information on additional cases, which it will submit to the Committee for possible addition to the List. Similarly, the List lacks detail on the travel documents held by listed people, although the Team knows that in some cases even new documents have been issued.

92. There are a number of tools that States can use to help prevent listed individuals from travelling internationally. One is the pre-departure Advance Passenger Information System (APIS) which allows States more time to vet passengers by obtaining their details before arrival. The Team suggests that the Committee recommend wider use of the APIS by Member States in support of the sanctions regime, and that such systems include processes for checking passengers against the Consolidated List. Another potentially effective practice adopted by some States is to require inbound foreign travellers to provide additional documents to confirm the purpose of their travel, and in doing so, allow officials to verify more comprehensively the applicants' identities than would be possible on the basis of a single travel document. The inventory of Member States experiences in implementing

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[74] Meaning "where entry or transit is necessary for the fulfilment of a judicial process or the Committee established pursuant to resolution 1267 (1999) ("the Committee") determines on a case-by-case basis only that entry or transit is justified", resolution 1735 (2006), para. 1(b).

the sanctions, available on the Committee website, could include such practices in case other States might also find them appropriate.

93. A significant challenge to the travel ban is the ability of listed individuals to travel under a false identity. In accordance with paragraph 23 resolution 1735 (2006), the Committee has increased cooperation with the International Civil Aviation Organization (ICAO) and has decided to promote wider adoption of ICAO standards regarding travel documents. Many countries have made significant progress in this area by issuing e-passports or inserting machine readable lines and other modern security features into older generation documents. But the work is far from complete, especially in States which have introduced such safeguards but themselves lack the necessary equipment to make use of them. Given the value of false travel documents to terrorists, the Team recommends that Member States should make a special effort to identify and submit for listing people who provide false or fraudulent documents to listed individuals and entities on the basis of their association with and support for Al-Qaida, the Taliban and their associates.

94. In its fifth report (S/2006/750, para. 89), the Team recommended that Member States participate actively in the International Criminal Police Organization (INTERPOL) Stolen and Lost Travel Document Database (SLTD). This database now includes details of 7.5 million passports and 8.3 million other types of travel documents, such as identity cards and visas, from 128 countries. Searches of this database since 2002 have resulted in 7,583 positive responses.[75] By scanning a machine-readable passport, a national immigration officer can find out in a few seconds whether it is recorded in the INTERPOL database which is accessible either online or through a stand-alone mobile database.[76] However, all but 19 INTERPOL Member States only have access to the SLTD through their National Central Bureaux (NCB) rather than directly at all points of entry. The system therefore has considerable unexploited potential to prevent listed individuals from crossing international borders with lost or stolen travel documents.[77]

95. Since the start of the sanctions regime, the Committee has foreseen the possibility of exemptions to the travel ban. Paragraph 1(b) of resolution 1735 (2006) mentions three circumstances in which it might not apply: where entry is sought by a national of the State; where entry or transit is necessary for the fulfilment of a judicial process, or where the Committee determines on a case-by-case basis only that entry or transit is justified. There are no limitations expressed regarding the grounds for exemptions, and this last category would seem to allow a listed individual to apply for an exemption for any purpose. But there is no standard procedure for doing so and the Team recommends that the Committee expand its guidelines to provide one.

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[75] In 2002, INTERPOL began with 10 participating countries and about 3,000 passports entered on the database. Use of the SLTD database grew to nearly two million searches per month in 2007. With the help of the database, approximately 400 travellers a month are now intercepted carrying passports that are reported lost or stolen. Source: www.interpol.int/Public/News/2007/OpEd20070816.asp and INTERPOL officials.

[76] Through two initiatives known as the Fixed INTERPOL Network Database (FIND) and the Mobile INTERPOL Network Database (MIND) that were described in the Team's sixth report (S/2007/132, annex II).

[77] For instance, a known war criminal wanted by INTERPOL Member States was able to travel through 16 countries and to cross borders more than 40 times using a falsified passport stolen in 1999 and reported to INTERPOL in 2003, until he was captured in December 2005. Access to INTERPOL SLTD at points of entry in any of these 16 countries might well have resulted in his apprehension much sooner. Source: www.interpol.int/Public/ICPO/speeches/SGstatement20070502.pdf.

96. The possibility of an exemption for religious purposes, such as pilgrimage, is an important one and is mentioned specifically in paragraph 6 of the Fact Sheet on the Travel Ban and its exemptions.[78] The expression of faith and the fulfilment of religious duties are of fundamental importance to a great number of people around the world, whether Christian, Hindu, Muslim or of any other persuasion. For example, Muslims must observe the five pillars of Islam as part of their belief, one of which is performance of the hajj. This involves travel to Mecca. The Government of Saudi Arabia, as the custodian of the holy places (Mecca and Medina) sees an obligation towards Muslims to allow them to perform their religious duties, and at the same time Saudi Arabia must observe its international commitments under the travel ban. Its ability to do so would be facilitated if exemption issues were handled prior to submission of a visa application for a listed persons' entry into its territory. The Team recommends that the Committee makes clear on its Fact Sheet that while travel in performance of a religious obligation is adequate grounds on which an individual may apply for an exemption, they should obtain such exemption before undertaking their journey, through their State of residence or nationality.

VII. ARMS EMBARGO

97. The Monitoring Team has continued to collect information from Member States on the Al-Qaida/Taliban arms embargo and has found three main challenges to its goals. The first is that some States appear not to have done enough to ensure implementation; the second lies in the diverse ways that States interpret their obligations, and the third relates to the scope of the arms embargo and its relevance to the constantly evolving methodology of its targets.

A. Implementation of the arms embargo

98. Almost all Member States agree that strict implementation of the arms embargo would diminish the threat from Al-Qaida, the Taliban and their associates. However, some States appear not to appreciate the full range of their responsibilities in this regard, and the Team has brought some possible cases of non-compliance to the attention of the Committee as directed by paragraph f, annex II of resolution 1735 (2006). In particular, the Team noted that listed individuals and entities had received arms and training in Afghanistan, Iraq and Somalia.[79]

99. In general, States need to do more than rely on existing national rules and regulations governing the ownership, import, transfer or export of arms. The Team believes that such pre-existing legislation is unlikely to enable full implementation of the Al-Qaida/Taliban arms embargo unless modified to take account of the fact that it should be directed against listed individuals and entities. In addition, some States have not devoted sufficient resources and attention to implementing the arms embargo, whether due to a perceived lack of threat, internal political factors, or limited capacity. For example, States in the Sahara region have found it difficult to deal with mobile terrorist training camps run by Al-Qaida in the Islamic Maghreb (QE.T.14.01.).

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[78] See www.un.org/sc/committees/1267/pdf/factsheet-on-travel-ban.pdf.

[79] Information obtained during the Team's visit to Afghanistan and Pakistan in May 2007; the Team's fifth report (S/2006/750, para. 129); and Monitoring Group on Somalia reports (S/2005/625 and S/2006/229).

B. Member States understanding of their obligations

100. Access to arms and training is a crucial element for Al-Qaida and the Taliban in their preparation for terrorist attacks. Yet, regrettably, the aggregate information obtained by the Team suggests that implementation of the Al-Qaida/Taliban arms embargo has in general not been given the same attention as the other two sanctions measures. This may be because the scope of the arms embargo is widely misunderstood to be limited to arms, although the wording in operative paragraph 1(c) of resolution 1735 (2006) makes no reference to a classic or traditional arms embargo and explicitly defines the measure as applicable to military and paramilitary equipment "of all types", as well as technical advice, assistance or training related to military activities. The paragraph also mentions the responsibility of States to prevent direct and indirect provision of arms or training from all their territories or by their nationals, including flag vessels and aircraft, outside their territories. This conceptual gap has created potential for partial implementation.

101. Non-compliance may also arise from the failure of States to act in full accordance with their obligation to prevent "indirect supply, sale, or transfer" to those on the List, including the need to control the end destination of arms shipments through end-user licensing and similar measures. The Team recommends that the Committee consider encouraging the creation of mechanisms, both in Member States and at an international level, to ensure that neither buyers of arms or related material, nor their intermediaries or end users appear on the Consolidated List or are acting under the direction or on behalf of any listed individual or entity.

102. To the extent that States are focused on preventing the export of arms, material and training from their territories, many yet fail to focus on related actions by their nationals outside their borders, as required by paragraph 1(c) of resolution 1735 (2006). This is particularly true with regard to technical advice, assistance, and military training and may in part be caused by the difficulty States have in exercising control over their nationals operating within the jurisdiction of another State, or in conflict areas where no effective central government exists. But nonetheless, the Team believes that Member States should establish clear legal prohibitions against such activities and also provide for effective international cooperation in the investigation and apprehension of violators. To enhance such cooperation, States should seek to remove legal obstacles to sharing pertinent information with other governments and relevant international and regional organizations, and in particular ensure that such cases are brought to the attention of the Committee.

103. To help States understand their obligations under the arms embargo, the Team has drafted an 'explanation of terms' paper (SCA/2/06(20)) which is available on the Committee website.[80] To give this paper more impact, the Committee might consider attaching it to its guidelines. Other suggestions by the Team, and the reaction of the Committee to them, can also be found on its website[81] and the Committee may see value in drawing the separate papers together into one document that records its current position on all the Team's proposals.[82]

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[80] www.un.org/sc/committees/1267/usefulpapers.shtml.

[81] www.un.org/sc/committees/1267/exptgrouprec.shtml.

[82] S/2005/760, S/2006/635, S/2006/1047 and S/2007/229.

C. Developing the scope of the arms embargo

104. The arms embargo is a traditional measure which has been used many times by the Security Council to address threats to international peace and security.[83] While the various regimes have many elements in common, there are also significant variations. In most regimes, the assumption has been that the embargo will only cover materiel produced for military use, but in many of the major attacks executed directly or indirectly by listed entities outside conflict zones, the explosives used have been either produced for civilian use or home-made. The Al-Qaida/Taliban arms embargo, insofar as it draws on previous regimes, will deal less successfully with the asymmetric warfare capabilities of Al-Qaida, the Taliban and their associates unless States pay attention to the objectives that lie behind it. In addition, while the threat from Al-Qaida and the Taliban has evolved considerably since the adoption of resolution 1390 (2002), the language of the arms embargo has remained unchanged. Therefore, the Team believes there are several areas where the arms embargo could be made to have greater effect on the asymmetric capabilities of listed entities.

1. Improvised and civilian explosives

105. There remains an urgent need for Member States to deal with improvised and civilian explosives. The Team has noted that Al-Qaida, the Taliban and their associates will use whatever explosives are available, for example military grade explosives in areas of conflict, or the necessary components to improvise an explosive device, such as ammonium nitrate, elsewhere (S/2007/132, para. 90). While the Team and many States believe that the term "arms and related material of all types" (resolution 1735 (2006), para. 1(c)) applies equally to military, civilian and improvised explosives, some have commented that it would be impossible to interdict the provision of civilian explosives or the materials for home-made bombs. But, the Team sees an opportunity to address the issue through the arms embargo, and recommends: (i) that the Committee explicitly include civilian and improvised explosives in its explanation of terms document; (ii) that the Committee assembles Member States experiences in dealing with this threat in a document published on its website; and (iii) that the Security Council specify in any future resolution on the matter that "related material of all types" includes civilian and improvised explosives. The Committee could then develop guidance for States based on examples of the problems and solutions States had found with implementation of the arms embargo in this area.

2. Tackling Al-Qaida/Taliban training and recruitment

106. The Committee accepted the Team's earlier recommendation that "technical advice, assistance or training" should cover not only those who conduct, direct or provide technical advice, assistance or training for listed parties, but also those who receive it from them (S/2007/229, para. 18). The Team recommends that the Council make this clear in any reiteration of the arms embargo. Similarly, the

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[83] For example resolutions 232 (1966), 418 (1977), 661 (1990), 687 (1991), 713 (1991), 733 (1992), 748 (1992), 751 (1992), 788 (1992), 841 (1993), 864 (1993), 918 (1994), 985 (1995), 997 (1995), 1011 (1995), 1053 (1996), 1132 (1997), 1160 (1998), 1171 (1998), 1284 (1999), 1295 (2000), 1298 (2000), 1343 (2001), 1408 (2002), 1425 (2002), 1478 (2003), 1483 (2003), 1493 (2003), 1509 (2003), 1518 (2003), 1521 (2003), 1533 (2004), 1552 (2004), 1556 (2004), 1572 (2004), 1579 (2004), 1584 (2005), 1591 (2005), 1718 (2006) and 1737 (2006).

Council could explicitly require Member States to prevent listed individuals and entities from having access to, establishing or maintaining military or terrorist training facilities inside their borders, thereby developing the scope of the arms embargo to cover training and recruitment comprehensively.[84]

107. Training is more than the mere transfer of technical skills; an important part of any proficient military training is psychological and social indoctrination that establishes a group ethos and esprit de corps. Preparing recruits mentally to function as part of a terrorist network and, in the extreme, to carry out a suicide attack, requires strong moulding of their hearts and minds. Therefore, considering that Al-Qaida urges all its followers to participate in violent struggle against its enemies, this type of post-recruitment incitement and radicalization could be seen as part of the training process covered by the arms embargo.

108. But in the Team's view, recruitment is even more important than training as manpower is Al-Qaida and the Taliban's most important resource. The Committee should clarify the application of the arms embargo to such activities, and the Council may also wish to consider whether the application of the arms embargo to recruitment should be made more explicit in future resolutions.

3. Arms embargo and the Internet

109. A practical way for listed individuals and entities to circumvent the arms embargo is through use of the Internet. The Internet has become a potential recruitment centre providing passive radicalization, active indoctrination and theoretical terrorist instruction. Trainers are available in virtual camps to pass on their knowledge without ever needing to be in physical contact their students. The Team has provided the Committee with analysis regarding the use of the Internet by Al-Qaida and its associates and is conducting further work on the subject; in doing so, it will consider specific recommendations relevant to the implementation of the arms embargo.

110. Currently the sanctions regime does not target the command, control, communications and information capabilities of listed groups. If the Internet is used in contravention of the provisions of the arms embargo or other measures, steps should be taken to prevent this. Existing methods employed by States to do so could be usefully catalogued in the document on the Committee website that records the experiences of the Member States in implementing the sanctions. The Committee could also produce its own recommendations.

4. Arms embargo and the notification procedure

111. The Team believes that the notification procedure recommended in paragraph 11 of resolution 1735 (2006) could be used to strengthen implementation of the arms embargo if revised to advise

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[84] It should be noted that Member States already have similar obligations established by the Security Council, for example in paragraph 2 a), c) and d) of resolution 1373 (2001), and some of them also by virtue of their participation in universal legal instruments against terrorism such as the measures outlined in article 15 of the International Convention for the Suppression of Terrorist Bombings that was adopted in 1997 and has currently more than 150 State parties. For more information, see UNODC database at http://157.150.210.22/tldb/universal_instruments_NEW.html.

listed individuals and entities that their acquisition of "arms and related material of all types [….] and technical advice, assistance, or training related to military activities" was under sanction. The Team believes that by establishing a formal obligation on listed individuals to abide by the sanctions and clearly informing them of the measures in place against them, States would not only improve the preventive function of listing, but also make it easier for them to monitor compliance and address attempted violations more effectively.

D. Arms embargo and illicit arms trafficking by air

112. Resolution 1390 (2002) and relevant subsequent resolutions oblige Member States to prevent the direct or indirect supply of arms and material to those on the List including "using their flag vessels or aircraft". Accordingly, in its fifth report, the Team raised the issue of illicit arms trafficking by air and noted that the Group of Eight had called on "the competent international and the interested regional organizations to take into consideration such illicit transport […]" (S/2006/750, para. 112). The Team also noted its cooperation with ICAO and the International Air Transport Association (IATA) on this issue.

113. Paragraph 23 of resolution 1735 (2006) requested "the Secretary General to take the necessary steps to increase cooperation between the United Nations and […] ICAO, IATA, and the [World Customs Organization] WCO, in order to provide the Committee with better tools to fulfil its mandate more effectively and to give Member States better tools to implement the measures", and in paragraph (n) of annex II tasked the Team "to work with relevant international and regional organizations in order to promote awareness of, and compliance with, the measures".

114. Considering the challenges faced by individual States, it would help to engage international organizations such as ICAO and IATA, which deal both with official authorities and airline operators, and WCO, which is the only intergovernmental organization that works on the development of global customs standards. Having liaised with these organizations at a working level, the Team believes that further progress would be helped by a high-level agreement between the organizations and the Committee, similar to the arrangement made between the Secretaries General of INTERPOL and the United Nations.

E. Other tools for enforcing the arms embargo

115. INTERPOL has developed an INTERPOL Weapons electronic Tracing System (IWeTS),[85] accessible through the I-24/7 network, to give Member States the ability to trace the origins of illegal firearms seized by them. It will allow States to check seized firearms against records in participating countries, as well as against INTERPOL own criminal information database, to retrieve available information in support of their investigations.

116. The Security Council has already recommended that States implement and provide technical and financial support to the IWeTS programme as a means to prevent the illicit trade in small arms

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[85] www.interpol.int/public/weapons/default.asp.

and light weapons.[86] Since illicit arms trade also circumvent the controls established by States to prevent the supply of arms to Al-Qaida, the Taliban and their associates, IWeTS has the potential to strengthen implementation of the arms embargo, especially with regard to efforts by government officials to identify and apprehend parties involved in direct or indirect supply of arms to those on the List. It may also allow the opportunity for States to submit the names of such suppliers for inclusion on the List as a result of their association with listed individuals and groups.

117. The Team accordingly recommends that the Committee encourage Member States to participate in the IWeTS system and to provide relevant information on stolen, lost or illicit firearms through their respective national focal points.

VIII. MONITORING TEAM ACTIVITIES

A. Visits

118. The Team visited 15 Member States between November 2006 and September 2007. Five of these visits were made jointly with the Counter-Terrorism Committee Executive Directorate (CTED) and the rest were mostly to States that the Team had not previously visited. In addition, the Team made follow-up visits to Pakistan and Afghanistan.

119. The Team also accompanied the Chairman of the Committee on his trip to Ethiopia, Djibouti and Kenya in July 2007. This trip demonstrated the value of the Chairman's travel as a way to engage States at the highest political level. The trip illustrated the many difficulties that States face when implementing the measures, some of which are as fundamental as the lack of a legal basis for doing so. It also showed how differently the threat can be perceived, even by neighbours. The Chairman was able to generate renewed interest in the sanctions regime in the three States and to confirm the willingness of the Committee to help any State deal with problems of implementation.

120. The trip to Pakistan and Afghanistan in May 2007 once again demonstrated the many challenges that confront the authorities in the Al-Qaida/Taliban heartland and allowed the Team to review how the sanctions regime was helping to address them. Both Governments are essential partners for the Committee in its effort to make the regime more effective and more focused against the threat, and they offered many useful suggestions as well as giving the Team detailed information on recent developments. The Team values this continuing engagement and regards the assessment of these two States as critical to its own evaluation of the progress being made by the sanctions regime.

121. In other visits, the Team found some confusion over the differing roles of the Counter-Terrorism Committee and the 1267 Committee, which it believes remains an issue that the two Committees may wish to address. Another common problem is the effective distribution of the List, especially to border points. States also stressed the importance of observing human rights while

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[86] See Report of the Secretary-General on Small Arms, recommendation 2, S/2003/1217 (2003), paras. 5-7; and Statement by the President of the Security Council, 31 October 2002, S/PRST/2002/30 (2002).

fighting terrorism and the need for international cooperation, especially in sharing information of operational value.

B. Talks and meetings

122. The Team also participated in many national, sub-regional, regional and international conferences and meetings, allowing it to explain the work of the Committee and the objectives of the sanctions regime, as well as discuss issues of common concern. Among the meetings it attended were two conferences which led to a specific request to the UNODC[87] to organize reporting workshops for States from Africa and the Caribbean/Latin America that owe reports to one or more of the three Security Council Committees which deal with counter-terrorism.[88] This request supports the common approach adopted by the three Committees, which aims to collect information while adding as little as possible to the burden on Member States.

123. The Team also participated in meetings organized by the Organization for Security and Cooperation in Europe (OSCE), and the Council of Europe Committee of Legal Advisers on Public International Law (CAHDI), where it received information from participating states related to the implementation of the sanctions and other international counter-terrorist activity, as well as about legal challenges that they face in relation to the sanctions regime.

C. Regional meetings for intelligence and security services

124. In accordance with its mandate as outlined in annex II of Security Council resolution 1735 (2006),[89] the Team continued to organize meetings of senior security and intelligence officials to discuss the evolution of the threat from Al-Qaida and the role of the sanctions regime. It held its fifth meeting for the heads and deputy heads of intelligence and security services from Algeria, Egypt, Jordan, Libya, Morocco, Pakistan, Saudi Arabia and Yemen in February 2007.[90] The dominant view in the meeting was that the threat from Al-Qaida-related terrorism had increased, despite all the efforts made since 2001. Al-Qaida had regrouped and regained strength, particularly through regional networks. Participants expressed their growing concern at the use of the Internet and other modern telecommunication technologies by Al-Qaida and related groups.

125. Delegates were pleased to note that resolutions 1730 (2006) and 1735 (2006) had dealt in part with other concerns expressed at previous regional meetings and this encouraged them to believe that sustained interaction with the Team was a useful way to enhance international exchange and bridge the gap between "those who know but lack the means, and those who have the means but lack the knowledge." Participants summed up the main Al-Qaida-related challenges to the international community as the Message, the Men and the Money. Much emphasis was put on addressing the

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[87] Santo Domingo Declaration: A/61/933-S/2007/319; Ouagadougou Declaration: A/61/992 - S/2007/416.

[88] The 1267 Committee, the Counter-Terrorism Committee and the Security Council Committee established pursuant to resolution 1540 (2004) concerning the non-proliferation of weapons of mass destruction.

[89] See resolution 1735 (2006), annex II, para. 1: "To consult with Member States' intelligence and security services, including through regional fora, in order to facilitate the sharing of information and to strengthen enforcement of the measures".

[90] Jordan and Libya were invited but were unable to participate.

conditions conducive to the spread of terrorism, in particular the non-resolution of regional conflicts which had a high political, emotional and symbolic impact on public opinion and young people in particular, spreading a sense of injustice, helplessness, oppression and humiliation. Participants also emphasized the importance of continued improvement of listing and de-listing procedures, and expressed their commitment to improve the Consolidated List. The group expects to meet again in early 2008, possibly with a slightly expanded membership.

126. In February 2007 the Team convened its first regional meeting for senior counter-terrorist officials from five States in South East Asia: Indonesia, Malaysia, the Philippines, Singapore and Thailand, at the United Nations Centre in Bangkok. The delegations comprised representatives from a variety of agencies, suggesting that responsibility for dealing with counter-terrorism in most States in the region is not centralized. However coordination within the delegations was both impressive and mature and all speakers displayed considerable experience and knowledge of the subject.

127. All delegations agreed that the main threat in the region comes from Jemaah Islamiyah (QE.J.92.02.), the Abu Sayyaf Group (QE.A.1.01.) and a newer arrival, the Rajah Solaiman Movement (non-listed), which works in close accord with the Abu Sayyaf Group*. Despite its weakened organizational structure, Al-Qaida was seen as a thriving global movement and a source of inspiration for would-be terrorists in the region.

128. Delegations found the Consolidated List useful and regarded it as an important part of national and international action to combat Al-Qaida and its associates. However, they criticized the lack of identifiers and raised many issues about listing and de-listing procedures, such as the importance of consulting a State of nationality or residence before listing, and the importance of having clear rules for de-listing people whose State of nationality or residence believed their names should be removed.

129. Beyond the immediate scope of the sanctions measures, delegations were particularly interested in sharing their experience of bringing terrorists back into society. There was a detailed discussion of national rehabilitation programmes and individual initiatives, with all delegations making an extensive contribution. This is clearly an area of success in the region and delegations expressed their willingness to help the Team find ways to spread some of their ideas to other States and to give a broader platform to ex-terrorists who were prepared to talk about their experiences and their regrets. Following this exchange, the Team has discussed the issue with the Committee and has approached other States with similar programmes to broaden its research.

130. All delegations recognized that terrorist use of the Internet had led to an increase in the threat, and most of the States represented were doing what they could within their own jurisdictions, including by introducing new laws, to combat the use of the Internet for terrorist purposes. All delegations agreed that they could not take effective action on their own, or even on a regional basis. Terrorist use of the Internet could only be dealt with by the international community as a whole.

D. Bankers group

131. Security Council resolution 1735 (2006), inter alia, requested the Team to consult relevant representatives of the private sector, including financial institutions, to learn about the practical

implementation of the assets freeze and to develop recommendations for the strengthening of that measure. Accordingly, in February 2007, with the help of the Watson Institute for International Studies at Brown University, the Team convened a meeting with representatives from a number of financial institutions with worldwide representation to discuss the implementation of the assets freeze.

132. The meeting was attended by 30 representatives from the financial sector, in addition to representatives from the academic world, the International Monetary Fund (IMF), the World Bank and CTED. The objectives of the meeting were to initiate a dialogue with the private sector; to gain a better understanding of the challenges faced by the financial community in implementing the sanctions regime; to identify ways to make compliance more straightforward, cost effective and efficient, and to generate ideas for improvement. The conclusions were welcomed by the Committee which encouraged the consultative process to continue.

133. To complement this group, the Team is organizing a second meeting, this time to include Islamic banks, smaller banks and practitioners from the informal banking sector.

E. International and regional organizations

134. Together with CTED and other relevant United Nations bodies, the Team has identified various areas of activity in which the Committee could usefully work with international and regional organizations. The Team has discussed joint initiatives with OSCE, in particular the Action against Terrorism Unit, WCO, ICAO and the IATA. As one immediate result, these organizations will ensure regular dissemination of the Consolidated List through their internal networks. OSCE and WCO have also agreed to engage the Team in their assistance and capacity-building programmes, insofar as they relate to implementation of the sanctions measures. ICAO and IATA have agreed to highlight the work of the 1267 Committee and to raise awareness of the Consolidated List among their members.

F. INTERPOL

135. In resolution 1735 (2006), the Security Council welcomed its expanded cooperation with INTERPOL and encouraged Member States to work through the framework of INTERPOL to improve implementation of the sanctions measures.[91] By the end of September 2007, the number of INTERPOL-United Nations Security Council Special Notices for listed individuals stood at 290. By that date, INTERPOL members in 112 countries had consulted all 290 Special Notices through the I-24/7 communications system on a total of over 9,400 occasions.[92]

136. As a next step, and at the request of the Committee, the Team and INTERPOL are discussing Special Notices for listed entities. It is hoped that these Special Notices will help obtain additional information on listed entities, which might contribute to identifying additional assets, and also those entities that continue to operate under a different name or have taken other steps to conceal their activities.

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[91] See resolution 1735 (2006), preambular para. 8.

[92] Source: INTERPOL.

137. Although Special Notices have attracted increasing attention and support from Member State law enforcement agencies, the Team recommends that the Security Council and the Committee encourage Member States to ensure broader diffusion of the Notices within the national law enforcement community, particularly to frontline officers, and also to distribute the publicly available versions of the notices more widely to other relevant agencies, non-governmental entities and the private sector. The Team also recommends that the Committee formally request Member States to provide INTERPOL with any additional law enforcement and identifying information that would significantly improve the quality of the notices on a continuing basis so as to keep them as up to date as possible.

138. While the Special Notices have had an undoubted and positive effect on the implementation of the measures, INTERPOL has commented that national law enforcement authorities do not always know who to turn to on issues relating to the sanctions regime. With this in mind, the Team repeats its earlier recommendation that the Committee encourage States to identify a national focal point for coordination and explanation of the Al-Qaida/Taliban sanctions regime within their countries and to ensure that their national law enforcement authorities, including INTERPOL National Central Bureaux (NCBs), are aware of these arrangements (S/2007/132, paras. 61-64).

G. Cooperation with the Counter-Terrorism Committee and the Committee established pursuant to resolution 1540 (2004)

139. As stated in the Team's sixth report, the three expert groups that support the 1267 Committee, the CTC and the 1540 Committee have developed a common strategy to address the problems faced by States that are yet to submit reports required by their respective Committees (S/2007/132, para. 113). In February 2007, the three Committees endorsed a 'modalities paper' submitted by the expert groups which sought to put the common strategy into action, starting with the African region.

140. Working with the Terrorism Prevention Branch (TPB) of UNODC as facilitator, the expert groups have planned a number of sub-regional workshops for national officials who are involved in the implementation of the relevant Security Council resolutions or are responsible for writing reports to the three Committees. The first workshop was for 23 West and Central African States; the second is for Southern African States, and the third will be for Northern and Eastern African States. The common strategy also includes proposals for States that need assistance with their reporting obligations in the Asia-Pacific group and in the Caribbean and Latin America group. The common strategy is not intended to detract from the current or planned work programmes of the Committees, or of their expert groups, which will continue to deal with States individually.

141. As the Team has no mandate to deal with the provision of technical assistance, it has forwarded whatever information it has collected from States on their assistance needs, or on their offers of assistance, to CTED for action. The Team also continues to coordinate its travel plans with CTED, and to exchange information both before and after trips.

IX. MEMBER STATE REPORTING

A. Resolution 1455 reports

142. The Team noted in its fifth report that 147 Member States had submitted a resolution 1455 (2003) report to the Committee as at 31 July 2006 (S/2006/750, para. 120). Since then, only four more States have done so: Georgia, Tuvalu, Uruguay and Vanuatu. The submission of these reports has in large part resulted from cooperation with, variously, OSCE, UNODC and New Zealand.

B. Checklist

143. In its sixth report, the Team assessed that the value of the checklist requested under resolution 1617 (2005) had been less than hoped for (S/2007/132, para. 25). At that time 55 Member States had submitted a checklist, and since then only two more have done so: India and Turkmenistan, both following a Team visit. There are therefore 135 States which had not submitted a checklist 19 months after the reporting date (1 March 2006). In sum, the checklists have only provided limited information from 57 States on the 24 names added to the List between 29 July 2005 and 31 January 2006, and nothing concerning the 443 names that were already there, or on the 23 names added since February 2006.

144. But some mechanism is still required to enable the Committee to obtain updated information on listed individuals and entities without imposing another reporting round on States. The Team suggested in its sixth report that a voluntary, informal mechanism be found for States to provide updated information to the Committee, and it continues to support this recommendation (S/2007/132, para. 28). It plans to submit to the Committee a list of questions for a voluntary survey on implementation to be posted on the Committee website to guide States on the type of additional information that the Committee would like them to report as it becomes available.

X. OTHER ISSUES

A. Enhanced Committee website

145. The Committee website now contains several new sections including a "latest news section" and documents such as: fact sheets on: (i) listing; (ii) de-listing; (iii) exemptions to the travel ban; (iv) exemptions to the assets freeze and (v) updating the Consolidated List. In addition, the list of "useful papers" now includes an Explanation of Terms paper on the Arms Embargo, Guidance to making more effective searches on the Consolidated List, a Press Release on the distinction between the 1267 Committee and the CTC, and a paper on Experiences of Member States in implementing the sanctions.[93]

146. The last of these is a collation of information received by the Team from more than 70 States. The 49 examples given are intended to provide an illustrative guide to how some Member States have

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[93] See www.un.org/sc/committees/1267/index.shtml.

gone about implementing the sanctions measures. Other States may (or may not) find some of these practices helpful or appropriate to their own national circumstances, resources and needs when implementing the 1267 regime. The paper does not duplicate the list of "international best practices" on the CTC website, which summarizes industry standards and codes according to the CTC mandate in resolution 1373 (2001).

ANNEX I - Litigation by or relating to individuals on the Consolidated List

1. There have been decisions over the past several months in two long-running suits brought by listed persons: an additional ruling against the Global Relief Foundation's (QE.G.91.02) challenge to the United States implementation of sanctions against it, and a ruling against Yasin Abdullah Ezzedine Qadi's (QI.Q.22.01) challenge to unfreeze his assets in Turkey. A decision is expected from the European Court of Justice within the next few months in another Qadi* case (and a companion action), which will have far-reaching implications for implementation of the sanctions there. Finally, the Al-Haramain Foundation (QE.A.117.04) has filed a new action in the United States, bringing the total number of challenges to the sanctions known to the Team to 26.

European Union[1]

2. Appeals brought by Ali Ahmed Yusaf (QI.Y.47.01)[2] and Barakaat International Foundation (QE.B.39.01) and Qadi* from judgements upholding application of the sanctions[3] are scheduled for oral argument before the European Court of Justice in Luxembourg soon; a final decision in these cases is anticipated before the end of the year. Two similar appeals brought by Shafiq ben Mohamed ben Mohamed Al-Ayadi (QI.A.25.01) and Faraj Faraj Hussein Al-Sa'idi (QI.A.137.03) remain stayed pending a ruling on the earlier appeals.[4] A fifth case brought by Uthman Omar Mahmoud (QI.M.31.01) in 2001 remains pending before the Court of First Instance,[5] as do four new cases brought last year by Abd Al-Rahman Al-Faqih (QI.A.212.06),[6] Sanabel Relief Agency Limited (QE.S.124.06),[7] Ghuma Abd'Rabbah (QI.A.211.06),[8] and Tahir Nasuf (QI.N.215.06).[9]

3. Also notable are a recent series of decisions by the European Court of First instance invalidating, on due process grounds, individual applications of European sanctions intended to implement resolution 1373 (2001) (requiring sanctions against those who commit or facilitate acts of terrorism).[10] The Court of First Instance distinguished earlier decisions upholding resolution 1267 sanctions[11] by noting that resolution 1373 (2001) does not identify specific persons whose assets must be frozen, making the decision to impose sanctions on particular targets, and the process used to reach that decision, a matter of Member State discretion and therefore subject to more searching review.

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[1] Cases and judgements are available at curia.europa.eu/en/content/juris/index.htm.

[2] De-listed on 24 August 2006, see press release SC/8815.

[3] Case T-306/01, Yusuf and Al Barakaat International Foundation v. Council and Commission; case T-315/01, Kadi v. Council and Commission. For more detail on the rulings in these cases, see the Team's fifth report (S/2006/750, annex III, para. 4) and fourth report (S/2006/154, annex paras. 4-7).

[4] Case T-253/02, Ayadi v. Council; Case T-49/04, Hassan v. Council and Commission.

[5] Case T-318/01, Othman v. Council and Commission.

[6] Case T-135/06, Al-Faqih v. Council.

[7] Case T-136/06, Sanabel Relief Agency Ltd v. Council.

[8] Case T-137/06, Abdrabbah v. Council.

[9] Case T-138/06, Nasuf v. Council.

[10] Paragraph 1(c) of resolution 1373 (2001) requires States to: "[f]reeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts" and "of entities owned or controlled directly or indirectly by such persons [...] and [...] persons and entities acting on behalf of, or at the direction of such persons and entities". Resolution 1373 (2001) does not identify a Consolidated List of specific persons whose assets must be frozen pursuant to these measures.

[11] See Case T-306/01, Yusuf and Al Barakaat International Foundation v. Council and Commission; case T-315/01, Kadi v. Council and Commission, referenced above.

These decisions highlight both the power of sanctions under the resolution 1267 (1999) regime and the continuing human rights concerns that attach to them.

Pakistan

4. The two cases brought by listed entities described in the Team's fifth report (S/2006/750, annex III, paras. 6-7) and sixth report (S/2007/132, annex I, para. 5) continue. The Al Rashid Trust's (QE.A.5.01) challenge to the freezing of its assets continues in the Supreme Court of Pakistan on the Government's appeal from a 2003 adverse decision. In the meantime, the lower court in that case on 26 April 2007 issued an order allowing the Trust to donate perishable food and medicine from its offices to recipients determined by the Government.[12] The challenge brought by the Al-Akhtar Trust International (QE.A.121.05) continues before the same lower court.[13]

Switzerland

5. As the Team has reported previously, listed individual Youssef Nada Ebada (QI.E.53.01) filed a complaint in June 2006 against the Office of the Attorney General of Switzerland, seeking compensation for financial losses resulting from a now-closed investigation by the federal prosecutor involving him and his company, Nada Management Organization SA (QE.N.58.01). On 31 May 2007, the Federal Criminal Tribunal in Bellinzona awarded Mr. Nada* 5,951 Swiss francs, far less than the 27 million he sought. The award was applied against 19,049 francs owed by Nada* as a result of the court proceedings. Ali Ghaleb Himmat (QI.H.43.01) also was awarded a judgement for a similar complaint on 19 June 2007. The separate actions by Nada* and Himmat* challenging sanctions against them remain pending before the Federal Tribunal in Lausanne.

Turkey

6. In the challenge brought by Yasin Abdullah Ezzedine Qadi*, the Administrative Cases Bureau of the Council of State of Turkey on 22 February 2007 overturned a decision by the 10th Division of the Council of State that would have unfrozen his assets.[14] The 10th Division's ruling annulled part of a 22 December 2001 Cabinet Decision that initiated the freeze. Qadi's assets have remained frozen throughout the appellate process.[15] The Administrative Cases Bureau is the highest reviewing body for challenges to Cabinet decisions, and its ruling appears to end Qadi's suit. The action by Nasco Nasreddin Holding A.S. (QE.N.81.02) remains pending.

United Kingdom

7. The appeals in the three cases brought by spouses of listed individuals discussed in the Team's sixth report (S/2007/132, annex I, para. 9) have been denied.[16]

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[12] Information provided by authorities in Pakistan.

[13] Ibid.

[14] Information provided by Turkish authorities, August 2007.

[15] Ibid.

[16] Information provided by authorities of the United Kingdom.

United States of America

8. On 31 May 2007, a federal district court dismissed or granted summary judgement on the remaining claims of the Global Relief Foundation (QE.G.91.02) (GRF). The court previously had dismissed the great majority of the plaintiff's claims challenging fundamental constitutional rights, which was affirmed on appeal. On the remaining claims, the court concluded in particular that the Government had an adequate factual basis to support its decision to impose sanctions on the organization. GRF announced in July 2007 that it would appeal the ruling but later dropped the appeal.

9. Listed entity Al-Haramain Foundation (United States of America) (QE.A.117.04) has initiated a new action against the Government in federal district court in Oregon, in addition to a previous action still pending in the United States. Al-Haramain argues that the United States decision to impose sanctions against it was arbitrary and unsupported by substantial evidence, and also violated its rights to due process (by failing to explain the factual basis for the Government's action and relying on classified evidence not provided to the organization), its right against unreasonable search and seizure (based on the freezing of its assets), and its rights to free speech, association, and free exercise of religion. Al-Haramain also argues that the Government's refusal to allow it to use blocked assets to pay its attorneys violated its due process rights. The Government's response to Al-Haramain's complaint is due 9 October 2007.

10. In Al-Haramain's ongoing challenge to alleged unlawful government surveillance, the Ninth Circuit Court of Appeals has allowed the Government an immediate appeal from a federal district court ruling which denied the Government's motion to dismiss the case at the outset due to the risk that litigation would result in disclosure of state secrets. The Ninth Circuit heard argument on the appeal on 15 August 2007 but has not yet ruled on it. Finally, the case brought by former Al-Haramain chairman Aqeel Abdul Aziz Al-Aqeel (QI.A.171.04) remains pending in federal district court, awaiting the court's decision on the Government's motion to dismiss.

ANNEX II - Non-listed groups associated with Al-Qaida and other listed bodies

1. As of 30 September 2007, the Consolidated List contained the names of 124 groups and entities, all in the Al-Qaida section of the List, of which approximately 30 could be described as involved in violence.

2. Most of these groups were listed in 2001, 2002 or 2003. Jama'at al-Tawhid wa al-Jihad a.k.a. al-Zarqawi network (QE.J.115.04), Lashkar-e-Tayyiba (QE.L.118.05) and the Islamic Jihad Group (QE.119.05) are the only ones to have been listed in 2004 and 2005 respectively. The organization of Al-Qaida in the Islamic Maghreb (QE.T.14.01) is the only "regional" branch of Al-Qaida to appear as such on the List. It was formerly known as the Salafist Group for Call and Combat (GSPC according to its acronym in French) and this is among the very few entries on the entities section of the List that has been updated (on 26 April 2007).[1]

3. Entries for the Abu Sayyaf Group (QE.A.1.01), Al-Itihaad Al-Islamiya, (QE.A.2.01), Al-Jihad/Egyptian Islamic Movement (QE.A.3.01), the Armed Islamic Group a.k.a. GIA (QE.A.6.01), Asbat Al-Ansar (QE.A.7.01), Eastern Turkistan Islamic Movement (QE.E.88.02), Harakat Ul-Mujahidin (QE.H.08.01), the Islamic Army of Aden (QE.I.9.01), Islamic International Brigade (IIB) (QE.I.99.03), the Islamic Movement of Uzbekistan (IMU) (QE.I.10.01), Jaish-I-Mohammed (QE.J.19.01), Jemaah Islamiyah (QE.J.92.02), Lashkar I Jhangvi (QE.L.96.03), the Libyan Islamic Fighting Group (QE.L.11.01), and the Moroccan Islamic Combatant Group (GICM) (QE.M.89.02) have not been updated for more than four years. They do not contain much information, in particular about their location(s) or zone(s) of operation, nor is there any mention of their leaders.

4. The entry for Al Qa'ida (QE.A.4.01) itself has not been updated since its listing on 6 October 2001. As a result, the current version of the List does not record the transformation of Al-Qaida's structure over the past years or the extent of its regional networks. Nor does the List reflect Al-Qaida's links with armed groups operating in zones of conflict, such as in Afghanistan, Iraq and Somalia, which are central to its strategy of expansion.

5. Many groups claim a connection with Al-Qaida, sometimes by adopting a related name or by publicly pledging allegiance to Usama bin Laden; and even if the connection is more apparent than real, one may conclude that the groups support Al-Qaida's aims and goals.[2] Few of these groups are listed. Groups calling themselves Al-Qaida in the Arabian Peninsula, Al-Qaida in Afghanistan, Al-Qaida in the land of Kinana (Egypt), Al-Qaida in Iraq[3] do not appear on the List.

6. Other groups have evolved. Ansar Al-Islam (QE.A.98.03) is now using Ansar Al-Sunna (listed as one of its a.k.a.s) as its main name and this should perhaps be reflected on the List. The Islamic Jihad Group* refers to itself also as Islamic Jihad Union, a name that should probably be listed as an alias. Similarly, the Team has been told that the Islamic Party of Turkestan, also known as the Islamic

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[1] SC/9005 of 26 April 2007, at www.un.org/News/Press/docs//2007/sc9005.doc.htm.

[2] For example, Michael Scheuer identified well over 20 in an article in Jamestown 'Terrorism Focus' Vol.4 Issue 8, 3 April 2007.

[3] The principal leader of umbrella groups such as the Mujahideen Shura Council (established in 2006) and the Islamic State of Iraq (announced by a communiqué on 15 October 2006).

Movement of Turkestan, is the same as the IMU*.[4] Other groups have emerged as possible spin-offs of larger groups. As Al Qaida in the Islamic Maghreb* has intensified its activities, cells which might be connected to it, or to GICM*, have emerged in several North African countries, with possible associates in Western European countries.

7. In South East Asia, the Rajah Solaiman Movement (or Rajah Solaiman Group) has been described to the Team as a group that works in close accord with the Abu Sayyaf Group* (see reference in main document). The issue of its listing was discussed in the first South East Asia regional meeting for intelligence and security services held by the Team in Bangkok in February 2007 – and Australia called for it during public briefing of the Security Council by the Chairmen of the 1267 Committee, the Counter-Terrorism Committee and the 1540 Committee on 22 May 2007, but no submission for listing has been made to date.

8. In Somalia, since the beginning of 2007, many of the bombings and suicide attacks that follow the practices of Al-Qaida associated groups in Iraq or Afghanistan have been claimed by Al-Shabaab movement, which is not listed.[5] The Team has been told that it has close links to Al-Itihaad Al-Islamiya* leaders, and may also have links to Al-Qaida. Certainly Aiman Al-Zawahiri* and Abu Yahya Al-Libi have been encouraging fighting in Somalia in their propaganda messages and are clearly trying to establish themselves as sources of political guidance over fighters there who might identify with their extremist and violent ideologies.

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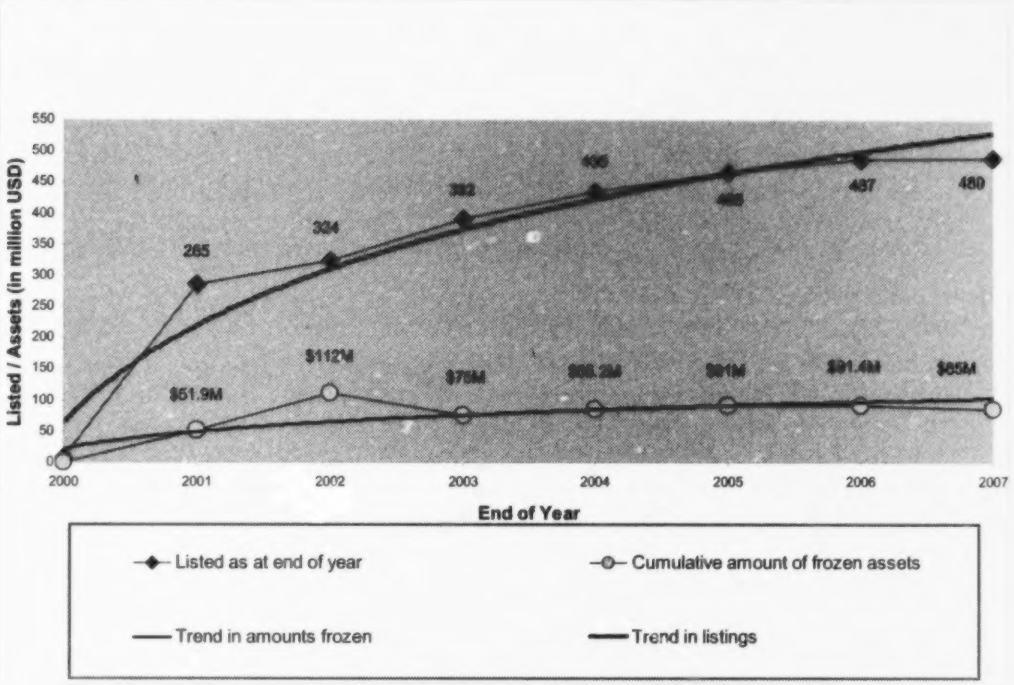
[4] Information provided during the Monitoring Team's trip to Uzbekistan, November 2005.

[5] Information provided to the Chairman of the Committee on his trip to Ethiopia, Djibouti and Kenya in July 2007.

ANNEX III - Impact of listings on the value of frozen assets



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Letter dated 12 November 2007 from the Secretary-General to the President of the Security Council

By its resolution 1259 (1999) of 11 August 1999, the Security Council appointed Carla Del Ponte as Prosecutor of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and the International Criminal Tribunal for Rwanda. By its resolution 1504 (2003) of 4 September 2003, the Council reappointed Ms. Del Ponte as Prosecutor of the International Tribunal for the Former Yugoslavia, and by resolution 1775 (2007) of 14 September 2007, extended her mandate to 31 December 2007.

As I have previously informed the Council, Ms. Del Ponte has notified me that she does not wish to be considered for reappointment for a new term. It will accordingly be necessary for the Security Council, in accordance with article 16, paragraph 4, of the statute of the International Tribunal for the Former Yugoslavia, to appoint a new Prosecutor.

In execution of the mandate conferred on me by article 16, paragraph 4, of the statute of the International Tribunal for the Former Yugoslavia, I hereby submit to you, and through you to the Security Council, the name of Serge Brammertz as my nominee and would ask the Security Council to appoint him Prosecutor, effective 1 January 2008.

(*Signed*) **Ban** Ki-moon